



ECONOMIC AFFAIRS INTERIM COMMITTEE

67th Montana Legislature

SENATE MEMBERS

Kenneth Bogner
Carlie Boland
Jason Ellsworth
Shane Morigeau

HOUSE MEMBERS

Alice Buckley
Derek Harvey
Joshua Kassmier
Brandon Ler
Mark Noland
Katie Sullivan

COMMITTEE STAFF

Erin Sullivan - Research Analyst
Jameson Walker - Attorney
Fong Hom - Secretary

MINUTES LOG

February 9, 2022

Room 137/Zoom, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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MEMBERS PRESENT IN PERSON:

Sen. Kenneth Bogner, Chair (R)
Rep. Derek Harvey, Vice Chair (D)
Rep. Alice Buckley (D)
Rep. Joshua Kassmier (R)
Rep. Mark Noland (R)
Rep. Katie Sullivan (D)

MEMBERS PRESENT VIA ZOOM:

Sen. Carlie Boland (D)
Sen. Jason Ellsworth (R)
Rep. Brandon Ler (R)
Sen. Shane Morigeau (D)

STAFF PRESENT:

Erin Sullivan, Research Analyst
Jameson Walker, Attorney
Fong Hom, Secretary

AGENDA (Attachment 1)

VISITORS' LIST (Attachment 2)

COMMITTEE ACTION

The committee held its fourth meeting of the interim to continue its three assigned studies, work on member and emerging issues, and continue statutory duties of agency oversight and administrative rule review. Statutory duties included:

- presentations by the:
 - Alcoholic Beverage Control Division;
 - Department of Commerce; and
 - Division of Banking and Financial Institutions; and
- administrative rule review.

The committee also:

- held Q&A panels for two of its assigned studies (HJ48 – facial recognition technology, HJ49 – benefits cliffs); listened to a presentation for the HJ48 study; listened to public comment; had discussion and determined next steps for each study;
- held a feedback panel on its SJ31 study on marijuana program implementation; listened to public comment; had discussion and determined next steps for the study;
- heard presentations and public testimony regarding member and emerging issues concerning:
 - domestic brewery license transfers;
 - the Cooperative Interstate Shipment Program;
 - the status of the Board of Horseracing lottery game implementation;
 - the home foreclosure process; and
 - Constitutional Initiative 121;
- did not renew its objection to the Department of Labor and Industry's rule on independent contractors (MAR 24-35-376); and
- voted to:
 - send a letter to the Attorney General requesting the Department of Justice investigate Whitefish Credit Union regarding potential predatory lending and unfair foreclosure practices;
 - send a letter to the Department of Revenue providing the committee's position on 16-12-223, MCA regarding existing marijuana cultivators licensees' ability to increase tiers during the moratorium; and
 - send a letter to the Revenue Interim Committee with a summary of the feedback received from the public regarding CI-121.

CALL TO ORDER/ROLL CALL

10:03:03 Presiding Officer Bogner called the meeting to order at 10:03 a.m. The committee secretary called roll. Rep. Ler joined the meeting via Zoom and Rep. Kassmier joined in person shortly after the meeting was called to order.

(Attachment 3)

10:04:16 Sen. Bogner gave opening remarks.

AGENCY OVERSIGHT: ALCOHOLIC BEVERAGE CONTROL DIVISION

Presentation by agency

10:05:02 Becky Schlauch, Division Administrator, Alcoholic Beverage Control Division
(Exhibit 1)

Committee Questions of Ms. Schlauch

10:26:39 Rep. Noland asked if there was a way to not charge the consumer so much for liquor.

10:29:12 Rep. Sullivan asked about the population-based quotas, specifically how the population is monitored, what is the frequency of updates, and where is the number coming from. She also asked about the frequency of new licenses coming on the market.

10:30:14 Sen. Ellsworth asked about the process to get a license and how long does that typically take. What would the outliers be that would extend that period.

Public Comment

None

MEMBER ISSUE: BREWERY LICENSE TRANSFER PROCESS

Report from agency

10:32:28 Ms. Schlauch gave a presentation on the brewery license transfer process. She referred the committee to the document "Domestic Brewery License Application". (Exhibit 2)

Questions from the committee

10:36:04 Sen. Ellsworth asked about the process of publishing the transfer of a brewery license.

10:38:11 Rep. Ler discussed the difficulty of completing the transfer of license documents. He said he is trying to streamline the process.

MEMBER ISSUE: COOPERATIVE INTERSTATE SHIPMENT PROGRAM

10:40:46 Erin Sullivan, Research Analyst, gave an overview of the cooperative interstate shipment program.

Report from agency

10:41:54 Mike Honeycutt, Executive Officer, Department of Livestock, gave a presentation on the Cooperative Interstate Shipment Program (CIS). (Exhibit 3)

Committee Questions of Mr. Honeycutt

10:54:26 Rep. Ler asked Mr. Honeycutt about the costs of the CIS program to the state when it is completed. Rep. Ler expressed his concern training federal inspectors, who jump ship from the state to the federals because the federals pay more. He asked if there were plans to retain those trained inspectors.

Public Comment

11:00:13 Rachel Cone, Montana Farm Bureau

BREAK (reconvene at 11:10 a.m.)

HJ 48 STUDY: FACIAL RECOGNITION TECHNOLOGY

Introduction and overview of briefing paper

11:13:46 Ms. Sullivan gave a presentation on the Facial Recognition Technology briefing paper. [\(Exhibit 4\)](#)

ID.me

11:15:59 Pete Eskew, ID.me. [\(Exhibit 5\)](#)

11:23:13 Dan Hildebrand introduced himself.

Questions from the committee

11:23:41 Sen. Ellsworth asked Mr. Eskew if ID.me will continue to utilize the same facial technology that they offered to the IRS and if Mr. Eskew could guarantee that the biometric information about Montana citizens would not be monetized or sold.

11:28:29 Sen. Buckley asked Mr. Eskew about a statement made by him that ID.me is more equitable and more secure than its counterparts. She said she is not hearing any metrics on the equitability piece especially around racial disparities, in particular, the indigenous population. Can he speak further on that.

11:31:28 Rep. Sullivan asked Mr. Eskew about the number of criminal searches requested by federal and state law enforcement, ID.me's privacy policy on selling and sharing information, and providing notice to an agency before ID.me considers or makes a policy change.

11:38:56 Sen. Ellsworth asked the Department of Labor and Industry (DLI) how an entity accesses information provided by ID.me if they had decided to not participate.

11:39:52 Paul Martin, Director, Unemployment Division, Department of Labor and Industry, responded.

11:40:57 Sen. Ellsworth asked Mr. Martin to submit to the committee what the process looks like, how many people are utilizing that process, and what is the turnaround.

11:41:53 Anne Dormady, Department of Justice, had no comments on Sen. Ellsworth's question.

Clearview AI

11:42:24 Jessica Garrison, Clearview AI, gave a presentation on Clearview AI and demonstrated how Clearview AI provides the information to the user. [\(Exhibit 6\)](#)

Questions from the committee of Ms. Garrison

- 12:02:00 Rep. Sullivan asked if Clearview AI has any customers in Montana that test, use, or access Clearview's database.
- 12:02:28 Rep. Noland asked about Clearview's success rates working with tribal enforcement.
- 12:07:39 Sen. Ellsworth asked if Clearview's public-only photos include photos that are sold to them by data brokers or any third parties.
- 12:09:21 Rep. Sullivan asked about photos that were uploaded onto social media and become available as public information which Clearview puts into its database. She asked about Clearview's code of conduct where its apps are neither designed or intended to be used as a single source system for establishing the identity of an individual and a user may not use it as such, what does that mean to Clearview AI, who can access that.
- 12:13:51 Sen. Bogner asked about the standard for encryption and how does Clearview determine that standard.
- 12:14:31 Rep. Sullivan asked if Clearview offers a testing concept where a government agency can contact Clearview and get access to its database and they can experiment with it, and then purchase a subscription.
- 12:15:57 Rep. Sullivan said she considers this technology a surveillance technology.

Public Comment on the HJ 48 Study

- 12:16:35 Mark Murphy distributed a copy of Administrative Rule 42.39.121 Licensed Premises – Security Requirements and explained why it pertains to the HJ 48 Study. [\(Exhibit 7\)](#)
- 12:21:04 Steve Cape, Coalition for Safety and Justice, commented on privacy policy.
- 12:28:19 E.J. Redding, Clearview AI in Montana
- 12:30:46 Aman Jabbi, Big Fork, Montana

LUNCH (reconvened at 1:10 p.m.)

SJ 31 STUDY: MARIJUANA PROGRAM IMPLEMENTATION

Implementation success stories and pain points

- 13:12:53 Ms. Sullivan referred the committee to The Rec Roundup: Updates to HB 701 Implementation briefing paper [\(Exhibit 8\)](#), the Marijuana Combined-Use Licenses briefing paper [\(Exhibit 9\)](#), and the Cannabis Control Division's January 2022 Marijuana Sales [\(Exhibit 10\)](#).

Updates from panelists

- 13:15:56 Brendan Beatty, Director, Cannabis Control Division
- 13:19:42 Kristan Barbour, Administrator, Cannabis Control Division
- 13:21:56 Frank White Clay, Chairman of the Crow Nation
- 13:24:36 Paulson Palmer, Fruit Factory

13:29:39 Evan Kajander, Apogee Gardens
 13:34:08 Jerry Spurlock, Firefly Dispensary, Missoula
 13:39:34 Pepper Petersen, President/CEO, Montana Cannabis Guild
 13:50:33 Erin Bolster, Tamarack Cannabis
 13:57:25 Barbie Turner, Alternative Releaf
 14:06:00 Jameson Walker, Committee Attorney, gave an update on the issue of existing cultivators.

Questions from the committee

14:19:51 Rep. Noland asked if there are issues with depositing money into the banks from the sale of cannabis.
 14:20:45 Ms. Bolster and Mr. Kajander responded.
 14:21:46 Rep. Noland asked Director Beatty about the application licensing process and if licensee applicants are being vetted properly.
 14:24:55 Rep. Noland asked Director Beatty questions related to 42-39-311, MCA.
 14:28:01 Rep. Sullivan asked Chairman White Clay and Mr. Petersen to comment on the canopy restrictions for tribes.
 14:28:48 Mr. Petersen responded.
 14:30:00 Chairman White Clay responded.
 14:30:44 Rep. Noland asked Director Beatty to comment on canopy restrictions for tribes.
 14:33:58 Sen. Boland asked for clarification on the Division's complaint form where there is a requirement to fill out the name and address of the complainant. The concern is that information on what the complaint is about might be shared with the marijuana establishment.
 14:35:09 Courtney Cosgrove, Attorney for Cannabis Control Division, responded and referenced 16-12-125, MCA.

Public Comment

14:38:15 Cody Minx, Crow Tribe, voiced his concerns on the combined use license given to tribe.
 14:40:14 Tayln Lang, Heirloom Remedies, Victor, Montana, commented on the 18-month ramp up that would allow small businesses to scale up and become competitive.
 14:43:54 Chennis D. Whiteman, Crow Tribes, commented that out of the eight tribes in Montana, the Crow Tribe is the only one that passed the cannabis ordinance compact.
 14:45:02 Steve Cape, Coalition of Safety and Justice, expressed his concerns about money seizures.
 14:52:58 Levi Black Eagle, Secretary of Crow Tribe, discussed the state's apprehension about entering into a compact with the tribes.
 14:54:41 Kate Cholewa, commented on the tiers, the complaint form, and foreshadowing.

14:58:26 Ybone Little Light, Jr., Crow Tribe, commented on the licensing and limitations faced by the tribe.

15:00:49 Darwin Spotted, Sr., asked the committee to look into the wording of trust and responsibility, and revise the language.

15:02:41 Pepper Petersen, Montana Cannabis Guild

15:05:48 Erica Siate, self

BREAK (reconvene at 3:15 p.m.)

HJ 49 STUDY: BENEFITS CLIFFS IN PUBLIC ASSISTANCE PROGRAMS

Introduction and overview of briefing papers and memos

15:20:29 Ms. Sullivan gave an overview of the HJ 49 Study: Benefits Cliffs in Public Assistance Program. She discussed the memo from the Department of Labor and Industry regarding the unemployment insurance technology project ([Exhibit 11](#)); a briefing paper on Montana Public Assistance Programs & Incentives ([Exhibit 12](#)); a briefing paper on Other States' Approaches to Address Benefits Cliffs ([Exhibit 13](#)); a memo from the Department of Public Health and Human Services (DPHHS) regarding its study on benefits cliff ([Exhibit 14](#)); DPHHS' updated numbers on their programs ([Exhibit 15](#)); a memo from DLI's Workforce Services Division regarding the HELP Link program ([Exhibit 16](#)); and a memo from the Montana Budget and Policy Center that provides more information about the earned income tax credit ([Exhibit 17](#)).

Questions from the committee

15:28:15 Rep. Buckley asked Paul Martin, Unemployment Insurance Administrator, Department of Labor and Industry, when will the committee get a report regarding the Montana Unemployment Insurance Modernization project.

15:30:12 Rep. Sullivan asked Ms. Sullivan about earned income tax credit offsetting loss of benefits when talking about the benefits cliff. The question was deferred to Jackie Semmens, Montana Budget and Policy Center.

15:32:13 Jackie Semmens responded.

15:32:53 Rep. Buckley asked Ms. Semmens about the gap from the 3% in Montana to the average of 22%.

15:34:37 Sen. Bogner asked about the benefits use calculators.

Public Comment on the HJ 49 Study

None.

GENERAL PUBLIC COMMENT

None

COMMITTEE WORK SESSION

HJ 48 Study Decisions

- 15:36:32 Ms. Sullivan discussed the study timeline for HJR48 Study. [\(Exhibit 18\)](#)
- 15:41:09 Rep. Sullivan discussed the next steps for the HJ 48 Study.
- 15:42:05 Rep. Noland asked Rep. Sullivan if she has specifics that she would like to discuss.
- 15:42:55 Rep. Sullivan discussed considering if facial recognition would be used in a criminal investigation, that the defendant should be notified if used in a trial; privacy policies that can't be changed without notification; and tightening up the requirements if law enforcement were to use a facial recognition database.
- 15:46:32 Sen. Bogner would support a committee bill.

HJ 49 Study Decisions

- 15:47:24 Ms. Sullivan discussed the study timeline for HJR 49. [\(Exhibit 19\)](#)
- 15:49:10 Rep. Noland asked Ms. Sullivan about the Department of Labor and Industry's oversight.
- 15:50:03 Rep. Buckley asked about bringing UI into the study and said she would support moving off the UI mainframe and support their tech needs.

RECESS

- 15:51:35 Sen. Bogner recessed the meeting at 3:51 p.m., to reconvene at 8:45 a.m. on February 10, 2022.