



## **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**

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

# **MINUTES LOG**

June 14, 2022  
Room 152/Zoom  
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:**

Rep. Derek Harvey, Vice Chair (D)  
Sen. Carlie Boland (D)  
Rep. Alice Buckley (D)  
Sen. Jason Ellsworth (R)  
Rep. Mark Noland (R)  
Rep. Katie Sullivan (D)

#### **MEMBERS PRESENT VIA ZOOM**

Sen. Kenneth Bogner, Chair (R)  
Rep. Joshua Kassmier (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 sixth meeting of the interim to continue work on its assigned studies and statutory duties, as well as address emerging issues and member topics. The committee:

- held committee work sessions, heard public testimony, and reviewed draft bills for its HJ48 and SJ31 studies. As part of the work sessions, the committee directed staff to amend the committee bills for review at a future meeting.
- heard a presentation and reviewed a draft final report for its HJ49 study;
- conducted agency oversight for the Governor's Office of Economic Development and the Montana State Fund;
- held statutory administrative rule review;
- heard presentations on military spouse occupational licensing;
- reviewed a potential committee bill on independent contractors;
- heard from the Department of Labor & Industry regarding a member issue on apprenticeship ratios; and
- concluded work on the member issue of review of the Unemployment Insurance Division's system replacement project.

Additionally, the committee voted to:

- Formally object to MAR Notice No. 42-1048 by the Department of Revenue;
- Formally object to MAR Notice No. 24-2-390 by the Department of Labor and Industry; and
- Advance the committee bill on independent contractors.

### **CALL TO ORDER/ROLL CALL**

09:31:56 Sen. Kenneth Bogner called the meeting to order at 9:31 a.m. The committee secretary called roll. (Attachment 3)

09:33:08 Sen. Bogner gave opening remarks.

### **EMERGING ISSUE: MILITARY SPOUSE OCCUPATIONAL LICENSING**

09:34:39 Erin Sullivan, Lead Researcher, introduced the panelists and gave a brief overview of the agenda item.

### **The Council of State Governments**

09:35:31 Adam Diersing, Research Associate, gave a presentation on national trends in military spouse licensing, focusing specifically on interstate compacts and universal license recognition. (Exhibit 1)

### **Questions from the Committee of Mr. Diersing**

09:52:07 Rep. Noland asked about potential new businesses and licensures coming into the state.

### **Defense-State Liaison Office**

09:55:00 Tammie Perreault, Regional Liaison, gave a presentation on licensure for military spouses as they move from state to state. (Exhibit 2)

#### Questions from the Committee of Ms. Perreault

- 10:05:39 Rep. Noland asked about the number of people whose spouse requires the licensure because they have moved to another state.
- 10:07:03 Rep. Noland asked what the issues are of spouses working remotely but not living in Montana.

#### Department of Labor and Industry

- 10:08:37 Eric Strauss, Administrator, Business Standards Division, discussed the work that the department is doing related to the issue.
- 10:11:03 David Cook, Deputy Administrator, Business Standards Division, discussed the operational elements in the department's process in licensing ([Exhibit 3](#)) and proposed language to 37-1-138, MCA ([Exhibit 4](#)).

#### Questions from the Committee

- 10:15:57 Rep. Sullivan asked Mr. Cook how long is a license good for before the military spouse has to renew it.
- 10:17:13 Rep. Noland asked Mr. Strauss if the department is getting any feedback regarding its customer service.

#### Office of Public Instruction

- 10:18:43 Tara Boulanger, Office of Public Instruction, discussed updates to Chapter 57 Rules ([Exhibit 5](#)).

#### Public Comment on Military Spouse Licensing - None

#### Potential committee action/discussion

- 10:22:06 The committee discussed the next steps to take regarding any committee bill dealing with military spouse licensing. Sen. Bogner said that he and some staff members were going to attend an NCSL conference on occupational licensing and doesn't want to take any specific direction on the military spouse licensing at this time. Sen. Bogner suggested having another meeting between now and the September meeting to discuss which direction to take regarding the military spouse licensure.

#### HOUSE JOINT 48 STUDY: FACIAL RECOGNITION TECHNOLOGY

##### WORK SESSION

##### Review of draft legislation

- 10:24:47 Ms. Sullivan gave a presentation on the briefing paper "HJ 48: Study of Facial Recognition Technology Draft Legislation for Discussion" ([Exhibit 6](#)) and the bill draft PD 0002: revising the membership of the criminal intelligence information advisory council ([Exhibit 7](#)).

##### Public Comment on draft legislation

- 10:31:01 Clemenre Arciga, Welcome Back Missoula

#### Committee questions, discussion

##### Term Limits, Legislator Reimbursement

- 10:32:11 Rep. Sullivan discussed the "Term Limits" section regarding the appointment process of a legislative member on the Criminal Intelligence Information Advisory Council.

10:33:08 Rep. Noland asked Ms. Sullivan if the term limits are 2 years or 4 years.

10:34:31 Rep. Noland asked Ms. Sullivan how far out can we go regarding term limits. He also asked about legislator reimbursement for the advisory council members.

10:36:26 Rep. Sullivan responded to Rep. Noland's questions.

Ms. Sullivan suggested, in response to the Legislator Reimbursement, that the committee could go with Option 2.

10:37:47 Sen. Ellsworth discussed going with Option 2 and that 2 years for term limits would be appropriate.

Ms. Sullivan clarified Option 2 and Option 3 for term limits.

10:39:37 Rep. Noland discussed allowing a legislator who doesn't get re-elected or is termed out to continue serving on the advisory council until his term is up.

10:40:47 Sen. Bogner asked Ms. Sullivan to explain Option 2, specifically, legislators' compensation for their time in interim committee meetings.

10:42:42 Sen. Bogner restated the decisions of the committee: keep the compensation as is, stagger 2-year terms, and add a members using an April date.

#### **PD 0006**

10:45:02 Ms. Sullivan discussed the PD 0006 summary ([Exhibit 8](#)) and the draft bill PD 0006 ([Exhibit 9](#)).

#### **Public Comment on draft legislation**

10:48:52 E.J. Redding, Clearview AI ([Exhibit 10](#))

10:50:39 Steve Cape, Montana Coalition for Safety and Justice ([Exhibit 11](#))

10:59:50 Kendall Cotton, President and CEO, Frontier Institute ([Exhibit 12](#))

11:04:18 Clemenre Arciga, Welcome Back Missoula

11:08:05 Connie Ciabatonj, self

#### **Committee questions, discussion**

11:10:16 Rep. Sullivan discussed PD 0006.

11:14:17 Rep. Noland said he will not support this bill draft.

11:25:39 Sen. Ellsworth commented.

11:27:22 Rep. Sullivan discussed agency use for fraud detection. She asked for the committee's feedback on that issue.

11:28:31 Rep. Noland

11:30:25 Rep. Buckley

11:31:23 Rep. Sullivan asked about the next steps for this concept.

11:32:22 Sen. Bogner asked if those who oppose any facial recognition technology ready to pass a prohibition across the board, are they willing to work on a Plan B in the event an individual legislator isn't able to pass a bill that prohibit use altogether.

11:32:40 Sen. Ellsworth discussed using the amendments process to amend bills. Rep. Noland said the committee should scrap the bill and start over..

Sen. Bogner stated that his preference going into the next session is to pass sideboards for facial recognition technology in some form. He suggested having additional meetings in which to discuss the bill.

11:39:34 Sen. Ellsworth

11:40:31 Rep. Sullivan

11:41:46 Rep. Noland  
11:44:14 Sen. Bogner discussed scheduling a meeting to hear the views of the Department of Justice and the Department of Labor and Industry on facial recognition technology in July and then meet in August to review the results from the July meeting.  
11:45:16 Ms. Sullivan suggested sending out a doodle poll for meeting dates.

**BREAK** (reconvened at 12:00 p.m.)

## **AGENCY OVERSIGHT: GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT**

### **Presentation by agency**

12:03:34 Chris Heggem, Chief of Staff, Governor's Office ([Exhibit 13](#))  
12:15:30 Scott Osterman, Director, Department of Commerce

### **Questions from the committee**

12:18:48 Sen. Ellsworth asked Ms. Heggem if the position of the Chief Business Development Officer will be filled by the governor or the director of the Department of Commerce.  
12:21:53 Rep. Buckley commented on the scope of the Office of Economic Development work on the housing and childcare situation.  
12:24:48 Ms. Heggem and Director Osterman responded.  
12:26:37 Rep. Harvey asked about the budget for the Office of Economic Development.

### **Presentation by Legislative Fiscal Division**

12:29:07 Kris Wilkenson, LFD, gave an update on the budget of the Office of Economic Development. ([Exhibit 14](#))

**Questions from the committee** - None

**Public Comment on the Office of Economic Development** - None

**LUNCH BREAK** (reconvened at 1:35 p.m.)

## **ADMINISTRATIVE RULE REVIEW**

### **Presentation on Rule Review**

13:36:29 Jameson Walker, Legal Staff, gave a presentation on Administrative Rulemaking and Rule Review ([Exhibit 15](#)) and Public Comment ([Exhibit 16](#)).

### **Public Comment on Rule Review matters**

13:41:33 Kate Cholewa, Montana Cannabis Industry Association  
13:43:14 Pepper Petersen, Montana Cannabis Guild

### **Questions from the committee**

13:48:22 Sen. Ellsworth asked Mr. Walker to clarify MAR Notice No. 24-2-390.  
13:52:01 Rep. Noland commented.  
13:54:06 Mr. Walker gave an overview of the marijuana products and packaging rule.  
13:55:03 Rep. Noland asked Mr. Walker about public comment on the second notice the MAR No. 42-1048.

13:55:56 Kate Cholewa, Montana Cannabis Industry Association, said that some of this redundancy issue that we are talking about here today did not come up.  
13:57:04 Rep. Harvey asked Mr. Walker about the committee not objecting at this point.  
13:59:21 Sen. Ellsworth asked Mr. Walker about options that the committee could take.  
14:01:53 Sen. Morigeau requested that the committee break to discuss whether or not to object to the rule in its entirety or a portion of the rule.

**BREAK** (reconvened at 2:08 p.m.)

**Motion**

14:11:06 Sen. Ellsworth moved to formally object to MAR Notice No. 24-2-390, and recommend that the department come and present at the next Economic Affairs meeting.

**Discussion on the motion**

14:11:32 Mr. Walker explained that 2-4-406, MCA, requires the committee to provide a statement as to its reasons for its action.  
14:11:53 Sen. Ellsworth said this is under repealed rules pertaining to public participation.

**Vote**

14:13:31 The motion passed unanimously on a voice vote, with Sen. Bogner and Rep. Kassmier voting yes by proxy.

**Motion**

14:14:23 Sen. Morigeau moved to formally object to Rule 42-1048, in accordance with 2-4-406 and 2-4-305, MCA.

**Discussion on the Motion**

14:15:27 Mr. Walker discussed the new rule.

**Vote**

14:16:36 The motion passed unanimously on a voice vote, with Sen. Bogner and Rep. Kassmier voting yes by proxy.

**Further Discussion**

14:17:47 Sen. Ellsworth asked about having another meeting before the new rule is adopted so that the members could review it.  
14:18:20 Sen. Morigeau commented.

**MEMBER TOPIC: INDEPENDENT CONTRACTORS**

**Review of draft legislation, PD 0016: Revising employment law relating to independent contractors**

14:20:03 Mr. Walker discussed PD 0016: Revising employment law relating to independent contractors. [\(Exhibit 17\)](#)  
14:27:27 Sen. Morigeau commented.

**Public Comment** - None

### **Committee questions, discussion**

- 14:30:17 Rep. Buckley commented on the workers comp exemption for independent contractors. She asked if it would be helpful to have another conversation about the exemption process.  
Sen. Morigeau responded.  
Rep. Buckley commented.
- 14:34:14 Sen. Boland asked Mr. Walker if an independent contractor is required to have workers comp and unemployment insurance.

### **Motion**

- 14:36:25 Sen. Ellsworth moved that bill draft PD0016 proceed as a committee bill.

### **Discussion on the motion**

- 14:37:02 Mr. Walker discussed proposed changes to the bill.

### **Vote**

- 14:37:50 The motion passed unanimously on a voice vote, with Sen. Bogner and Rep. Kassmier voting yes by proxy.

### **AGENCY OVERSIGHT: MONTANA STATE FUND**

- 14:38:59 Laurence Hubbard, former President and CEO, Montana State Fund
- 14:39:17 Mr. Hubbard introduced Holly O'Dell as the new incoming President and CEO.
- 14:43:38 Rep. Harvey thanked Mr. Hubbard for his service and welcomed Ms. O'Dell.
- 14:44:07 Holly O'Dell, President and CEO, Montana State Fund

### **Montana State Fund 2022 Budget**

- 14:46:03 Mark Burzynski, Vice President of Corporate Support, CFO ([Exhibit 18](#))

### **Questions from the committee**

- 14:54:07 Rep. Noland thanked Mr. Hubbard for his service.

### **Public Comment on Montana State Fund** - None

**BREAK** (reconvened at 3:05 p.m.)

### **SENATE JOINT 31 STUDY: MARIJUANA PROGRAM IMPLEMENTATION**

- 15:07:24 Ms. Sullivan referred the committee to the following documents: the Annual Report on Medical Marijuana Complaints ([Exhibit 19](#)) and the letter from the Department of Revenue ([Exhibit 20](#)).  
Ms. Sullivan introduced Dan Kayser, Data Visualization Analyst, LSD, who developed the Marijuana Metrics dashboard.

### **Marijuana Metrics dashboard presentation**

- 15:09:21 Mr. Kayser gave a demonstration of the Marijuana Metrics dashboard.
- 15:13:55 Ms. Sullivan said that the data will be updated monthly as it is tied to the Department of Revenue's data.

**Review of draft legislation: PD 0001 revising marijuana laws, clarifying legislative monitoring duties**

15:15:35 Ms. Sullivan gave a presentation on PD 0001. [\(Exhibit 21\)](#)

**Public Comment on draft legislation**

15:20:31 Thomas Jodoin, Deputy Director General Counsel, Montana League of Cities and Towns  
15:21:29 Kate Cholewa, Montana Cannabis Industry Association  
15:25:54 E.J. Redding, Clearview AI  
15:26:58 Erika Siate, self  
15:28:45 Pepper Petersen, President and CEO, Montana Cannabis Guild  
15:37:04 Sarah Markman, Apogee Garden Dispensaries

**COMMITTEE WORK SESSION ON SENATE JOINT RESOLUTION 31 STUDY  
Inconsistency in Definitions Analysis**

15:40:39 Ms. Sullivan gave a presentation on SJ 31: Inconsistency in Definitions Analysis. [\(Exhibit 22\)](#)

**Questions from the committee**

15:42:29 Rep. Sullivan asked about changing "purchaser" to "customer", and leaving "consumer" as is.  
15:43:54 Kristin Barbour, Administrator, Cannabis Control Division, responded.

**Motion/Vote**

15:44:15 Sen. Ellsworth moved to accept changing the word "purchaser" to "customer" in 15-64-101, MCA. The motion passed unanimously on a voice vote, with Sen. Bogner and Rep. Kassmier voting yes by proxy.

**Catch-All Penalty Provision Analysis**

15:44:40 Ms. Sullivan presented the SJ 31: Catch-All Penalty Provision Analysis. [\(Exhibit 23\)](#)

**Questions from the Committee**

15:48:11 Sen. Ellsworth commented on the catch-all analysis.  
15:48:39 Rep. Sullivan asked Ms. Sullivan if the proposed catch-all would be criminal or civil.  
15:51:40 Sen. Ellsworth said he wanted to see some recommendations from the Cannabis Control Division or the Department of Justice on some of these issues.  
15:52:43 Rep. Harvey decided to pass on taking action on the Catch-All Penalty and revisit it at a later date.

**Expungement Court Analysis**

15:53:02 Mr. Walker gave a presentation on the Expungement Court Analysis. [\(Exhibit 24\)](#)



**Motion/Vote**

15:55:33 Sen. Ellsworth moved to go with Option C: leave the statute as is. The motion passed unanimously on a voice vote, with Sen. Bogner and Rep. Kassmier voting yes by proxy.

**Definition of Hemp Analysis**

15:55:55 Ms. Sullivan gave a presentation on SJ 31: Definition of Hemp Analysis. [\(Exhibit 25\)](#)

**Questions from the Committee, Discussion**

15:59:19 Ms. Barbour discussed intoxicating hemp products that are being sold on the market.

16:01:06 Rep. Harvey said the committee will pass on this topic and return to it at a later date.

**Identity of Complainant Analysis**

16:01:17 Mr. Walker gave a presentation on SJ 31: Identity of Complainant Analysis. [\(Exhibit 26\)](#)

**Motion/Vote**

16:03:37 Sen. Ellsworth moved to go with Option A: remove identity requirement in 16-12-125, MCA. The motion passed unanimously on a voice vote, with Sen. Bogner and Rep. Kassmier voting yes by proxy.

**Background Checks Analysis**

16:04:11 Ms. Sullivan gave a presentation on SJ 31: Background Checks Analysis. [\(Exhibit 27\)](#)

**Motion/Vote**

16:07:22 Sen. Ellsworth moved that the committee adopt Option C: Amend both 16-12-129 and 16-12-226, MCA. The motion passed unanimously on a voice vote, with Sen. Bogner and Rep. Kassmier voting yes by proxy.

**Fee Structure Analysis**

16:07:45 Ms. Sullivan gave a presentation on SJ 31: Fee Structure Analysis. [\(Exhibit 28\)](#)

**Committee questions, discussion**

16:10:57 Sen. Ellsworth asked Ms. Barbour about the fee structure.

16:15:13 Rep. Sullivan asked about the fee structure if at one month they are at 10 pounds and the next month they are at 80 pounds and then they dropped down again.

16:16:48 Rep. Harvey said the consensus is to pass on this issue, work with the department, and come back to it at a later date.

16:17:12 Rep. Noland asked about a timeframe. Ms. Sullivan said the July meeting would be for hearings and then the committee will meet again in August to review the bills.

**Tier Increase Analysis**

16:18:10 Mr. Walker gave a presentation on SJ 31: Tier Increase Analysis. [\(Exhibit 29\)](#)

**Motion**

16:22:07 Sen. Ellsworth moved to adopt Option C: Include a "whereas" clause to signify legislative intent.

**Discussion on the motion**

16:22:37 Mr. Walker discussed the "whereas clause" in Option A. He said that the committee might want to amend 16-12-223, MCA, to provide that a cultivator might "at any time" increase its licensure level.

**Amended Motion/Vote**

16:22:55 Sen. Ellsworth amended his motion to go with the recommendation from Mr. Walker. The motion passed unanimously on a voice vote, with Sen. Bogner and Rep. Kassmier voting yes by proxy, and Rep. Buckley voting yes by proxy.

**Combined-Use Analysis**

16:23:50 Ms. Sullivan presented SJ 31: Combined-Use Analysis ([Exhibit 30](#)). She referred the committee to the memo from Andrew Huff regarding State-Tribal Revenue Sharing ([Exhibit 31](#)).

**Committee questions, discussion**

16:29:41 Sen. Morigeau expressed his concerns about the rule that was structured by the department that says that the combined-use license will adhere to all the rules for tiering up. He asked that the department to do what the law says and what their rule says.

16:35:34 Sen. Ellsworth discussed the memo that was sent to the department.

16:37:07 Scott Mendenhall, Deputy Director, Department of Revenue, discussed the activities of the department relating to the combined-use licensure.

16:45:18 Rep. Harvey said he would like a decision on the recommendations and take action on it at tomorrow's meeting.

16:45:34 Rep. Sullivan asked Ms. Sullivan about the pros or cons regarding Option A vs. Option B.  
Ms. Sullivan said she would not recommend Option B but would recommend Option A.

**Motion/Vote**

16:47:27 Rep. Sullivan moved to go with Option A: Amend 16-12-225, MCA, and add an immediate effective date. The motion passed unanimously by voice vote, with Sen. Bogner and Reps Kassmier and Buckley voting yes by proxy.

**Criminal Distribution of Dangerous Drugs Analysis**

16:47:58 Mr. Walker gave a presentation on SJ 31: Criminal Distribution of Dangerous Drugs. ([Exhibit 32](#))

**Committee questions, discussion**

16:51:05 Rep. Harvey said that the consensus of the committee was to go with Option B: Leave as is.

**Title 61 Repeal Analysis**

16:51:24 Ms. Sullivan gave a presentation on SJ 31: Title 61 Repeal Analysis. ([Exhibit 33](#))

**Motion/Vote**

16:52:21 Sen. Ellsworth moved to go with Option C: Send letters to both the Law and Justice Interim Committee and the Department of Justice. The motion passed unanimously on a voice vote, with Sen. Bogner and Reps Kassmier and Buckley voting yes by proxy.

**Local-Option Tax Analysis, Revenue Allocation for Local-Option Tax**

16:53:11 Ms. Sullivan gave a presentation on the Local-Option Tax Analysis, specifically on Issue 1: Revenue Allocation for Local-Option Tax. ([Exhibit 34](#))

**Motion/Vote**

16:55:14 Sen. Ellsworth moved to go with Option A: Amend 16-12-310, MCA. The motion passed unanimously on a voice vote, with Sen. Bogner and Reps Kassmier and Buckley voting yes by proxy.

**Local-Option Tax Analysis, Discrepancy in Notice Requirements for Elections**

16:56:05 Ms. Sullivan gave a presentation on the Local-Option Tax Analysis, specifically on Issue 2: Discrepancy in Notice Requirements for Elections. ([see Exhibit 34](#))

**Motion/Vote**

16:58:01 Sen. Ellsworth moved to accept the recommendation to amend 16-12-311, MCA, to remove or clarify conflicting language with 13-1-108, MCA.

**Discussion on the Motion**

16:58:34 Rep. Sullivan asked about Option A that says "remove" and Option B that says "clarify". Ms. Sullivan explained the language in Option A and Option B. Rep. Sullivan asked if Option A makes the notice requirement in line with 13-1-108. Rep. Sullivan said she would support Option A.

**Amended Motion/Vote**

17:00:14 Sen. Ellsworth amended his motion to go with Option A: Amend 16-12-311, MCA, to remove notice elements in conflict with 13-1-108, MCA. The motion passed unanimously on a voice vote with Sen. Bogner and Reps Kassmier and Buckley voting yes by proxy.

**Further questions or comments on SJ 31**

17:01:24 Rep. Noland said he would like an answer from the Department of Revenue on what the estimated revenue on marijuana is.

**GENERAL PUBLIC COMMENT** – None**RECESS**

17:03:21 Rep. Harvey recessed the meeting at 5:03 p.m.