



## **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**

September 22, 2021  
Capitol Building, Room 172/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:**

Sen. Kenneth Bogner, Chair (R)  
Sen. Carlie Boland (D) (Zoom)  
Rep. Alice Buckley (D)  
Sen. Jason Ellsworth (R)  
Rep. Joshua Kassmier (R) (Zoom)  
Rep. Brandon Ler (R)  
Sen. Shane Morigeau (D)  
Rep. Mark Noland (R)

#### **MEMBERS EXCUSED:**

Rep. Derek Harvey (D)  
Rep. Katie Sullivan (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 second meeting of the interim to determine the scope of its three assigned studies and continue statutory duties of agency oversight and administrative rule review. Statutory duties included:

- presentations by the Montana State Fund, State Auditor's Office, and the Cannabis Control Division;
- review of the process for implementing HB651, relating to committee review of proposed ballot initiatives; and
- administrative rule review, including a hearing regarding the temporary emergency rules issued by the Board of Pharmacy/Department of Labor & Industry

The committee also:

- determined the study topics for HJ48 (facial recognition technology) and HJ49 (benefits cliffs);
- adopted an amendment to the committee rules to include meeting notice provisions for committee review of proposed ballot initiatives;
- planned an additional meeting in October to review the rule package for HB 701;
- authorized staff to arrange an optional tour of marijuana facilities for committee members;
- discussed a potential emerging issue regarding occupational licensing for military spouses;
- reviewed changes to its draft interim work plan and adopted the work plan as revised; and
- adopted its final meeting date for the interim.

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

- 09:11:17 Sen. Kenneth Bogner, Presiding Officer, called the meeting to order at 9:11 a.m. The committee secretary called roll. [\(Attachment 3\)](#)
- 09:12:11 Sen. Bogner gave opening remarks.

### **STUDY OVERVIEWS AND OPTIONS**

#### **House Joint 49 - Benefits Cliffs**

- 09:13:20 Rep. Jane Gillette gave a presentation on HJ49: Benefits Cliffs.

### **Committee Questions**

- 09:16:33 Sen. Ellsworth asked Rep. Gillette if she was looking for draft legislation coming out of the Economic Affairs Committee or does she have any proposed legislation that she is looking to sponsor.

### **HJ 49 Overview**

- 09:19:30 Erin Sullivan, Research Analyst, gave a presentation on the HJ49: Benefits Cliffs. [\(Exhibit 1\)](#)

### **Committee Discussion**

09:28:54 Sen. Morigeau discussed his concerns of going into the eligibility topic and suggested going into the workforce shortages that Montana is facing.

09:29:55 Rep. Buckley said that looking at the workforce shortage issue and thinking about solutions there, and potentially looking at other states and what workforce training programs are effective would be an interesting direction to take.

09:30:44 Sen. Morigeau said he would like more general education and finding a way to look at how this committee might help with the workforce shortage issue.

09:31:15 Sen. Ellsworth agreed with Sen. Morigeau and suggested adding that within the scope of the study.

09:31:37 Sen. Boland asked about people with disabilities that are working part-time and not able to take a higher wage because they would lose a lot of benefits. She said that if the Department of Public Health and Human Services isn't handling that, then the committee needs to address it.

09:33:20 Sen. Bogner said that it might be beneficial to bring Director Meier in and have him answer questions from the committee.

09:33:51 Rep. Noland said that he would like to see what other states are doing and get an update from DPHHS and what other committees are doing.

09:34:54 Rep. Buckley commented on narrowing that scope and looking at what other states are doing.

09:35:36 Sen. Bogner summarized what he heard from committee members.

09:35:56 Ms. Sullivan discussed what the committee should focus on, which is general education, what other states are doing, and workforce shortage issues.

### **House Joint 48 - Facial Recognition Technology**

#### **HJ 48 Overview**

09:37:44 Ms. Sullivan gave a presentation on HJ 48, Facial Recognition Technology.  
(Exhibit 2)

#### **Public Comment on HJ 48**

09:44:44 Kendall Cotton, President and CEO, Frontier Institute

09:46:22 Aman Jabbi, Bigfork, Montana

### **Committee Discussion**

09:48:42 Rep. Noland said the study is a good idea but is concerned about what other countries are doing.

09:51:48 Sen. Morigeau asked about state agencies using facial recognition.

09:53:24 Rep. Buckley said that in Ms. Sullivan's initial comments that it was used by both state agencies as well as used in investigations and in criminal actions.

09:54:00 Sen. Bogner said that the main goal of the study is to investigate which Montana agencies use the technology and why.

09:55:18 Ms. Sullivan said that the uses in investigations and uses for unemployment can be the same as uses by state agencies. The committee could also study the security of facial recognition technology.

**AGENCY OVERSIGHT**  
**MONTANA STATE FUND**  
**Agency Presentation**

09:56:56 Laurence Hubbard, President and Chief Executive Officer, Montana State Fund, provided opening remarks. [\(Exhibit 3\)](#)

**Committee Questions**

10:06:03 Sen. Morigeau commented on the State Fund board meeting which he attended.

**Montana State Fund Budget**

10:06:52 Mark Burzynski, Montana State Fund Chief Financial Officer, gave a presentation on the 2021 Montana State Fund Budget. [\(Exhibit 4\)](#)

**Committee Questions**

10:18:39 Sen. Ellsworth asked Mr. Burzynski how the Montana State Fund's rates match up to other companies that are operating in the state.

10:20:39 Rep. Noland asked how agent commissioner rates are negotiated.

10:21:30 Kevin Braun, Montana State Fund, explained how the commissioner rates are established.

10:23:41 Rep. Noland asked Mr. Burzynski about the Montana State Fund's \$40 million dividend, what are the duties of the 307 State Fund employees. He also asked that Mr. Burzynski explain the parking garage lease that the agency has with the City.

10:29:37 Renee Martello, Controller for Montana State Fund, discussed the parking garage lease.

10:31:32 Jameson Walker, staff attorney, discussed the history of the parking garage.

**Public Comment on the Montana State Fund**

None.

**BREAK**

**ADMINISTRATIVE RULE REVIEW**

**Overview of the Emergency Rules**

10:49:13 Sen. Bogner gave an overview on the emergency rules that led to multiple pieces of legislation regarding transparencies and checks.

10:49:30 Jameson Walker, Legal Staff, gave a presentation on MAR Notice No. 24-174-77. [\(Exhibit 5\)](#)

10:59:16 Marcie Bough, Executive Officer, Montana Board of Pharmacy, Department of Labor and Industry, gave background information on MAR Notice No. 24-174-77.

**Committee Questions of Ms. Bough**

11:03:50 Sen. Morigeau asked about the ratio between the pharmacists and the technicians and if that ratio could be expanded.

11:04:30 Ms. Bough said that the current ratio is one pharmacist to four technicians. The Board will be considering options on whether to expand that ratio or not.

11:05:33 Sen. Morigeau asked about possible training for pharmacists who might administer vaccines, etc.

11:06:03 Ms. Bough discussed the authority for pharmacists to administer vaccines and supervise technician staff which is outlined in the Federal PREP Act Authority.

11:07:12 Rep. Noland asked about the need for this emergency rule.

11:07:42 Ms. Bough said that the Montana Pharmacy Association approached the board after they had been in discussions with the Governor's Office to find a solution and a pathway to proceed with implementing the state provision that was a directive in March of 2021.

11:09:32 Rep. Ler asked Mr. Walker to explain the emergency rule.

11:10:00 Mr. Walker

11:11:16 Sen. Ellsworth said he is supportive of this rule.

#### **Public Comment on MAR Notice No. 24-174-77**

11:12:23 Stuart Doggett, Montana Pharmacy Association

11:15:46 Sandra Guckian, National Association of Chain Drug Stores

11:17:39 Kristi Monson, Montana Family Pharmacies

11:20:53 Kimberly Walz, Regional Director for Government Relations for Walgreens of Montana

#### **STATE AUDITOR'S OFFICE**

##### **Agency Presentation**

11:23:35 Jackie Jones, Commissioner of Securities and Insurance, Montana State Auditor's Office, introduced Mary Belcher, Deputy State Auditor, and Bob Biskupiak, Deputy Insurance Commissioner. She gave an overview of legislation that is going into effect on October 1; rulemaking activities, reinsurance, and legal actions. [\(Exhibit 6\)](#)

11:34:14 Bob Biskupiak provided a report on loss ratio information from various companies. [\(Exhibit 7\)](#)

##### **Committee Questions**

11:35:22 Sen. Morigeau asked Mr. Biskupiak about the housing market in Montana and if he has any insight on the cost of insurance and what the rates are across the state.

11:36:45 Sen. Morigeau asked if those rates will be going down in the future and whether or not the insurance companies would adjust the rates for homeowners if they went down.

11:38:17 Rep. Noland asked Ms. Jones about future businesses coming into Montana, where would they get information for registering their business, etc., what agency would they go to for that information.

11:44:18 Ms. Jones responded to Sen. Morigeau's concern that with housing prices going up, a lot of people are underinsured.

#### **LUNCH BREAK**

#### **COMMITTEE REVIEW OF PROPOSED BALLOT INITIATIVES**

##### **Overview**

13:03:02 Mr. Walker gave a presentation on Interim Review of Ballot Issues. [\(Exhibit 8\)](#)

### **Committee Discussion**

- 13:09:34 Rep. Noland expressed his concerns regarding future ballot initiatives.
- 13:11:42 Sen. Morigeau asked Mr. Walker to clarify what the committee's duty is for ballot initiative review.
- 13:12:07 Mr. Walker
- 13:13:45 Sen. Morigeau asked about the committee listing the reasons for its review and what the vote might have been on an initiative.
- 13:14:22 Mr. Walker said that House Bill 651 contains how the language would appear on the ballot.
- 13:15:17 Sen. Boland asked Mr. Walker if future initiatives are to be reviewed by the EAIC, would EAIC review it alone or will other interim committees also going to review the initiatives.
- 13:16:01 Mr. Walker discussed 5-5-215, MCA, that says that the appropriate interim committee reviews it and then provides the vote. The appropriate interim committee is determined by the relevant interim committee subject matter jurisdiction.
- 13:16:45 Sen. Bogner referred the committee to the Amendment to the EAIC Rules. [\(Exhibit 9\)](#)

### **Committee Action on Amendment to EAIC Rules**

- 13:17:04 Mr. Walker discussed Item G of the Amendment to EAIC Rules.
- 13:17:34 Sen. Morigeau said that it makes sense for the committee to have a process.

### **Motion/Vote**

- 13:19:08 Sen. Ellsworth moved to adopt the language in Item G into the rules.
- 13:19:45 The motion passed unanimously on a voice vote.

## **CANNABIS CONTROL DIVISION**

### **Update on implementation plan**

- 13:20:41 Kristan Barbour, Administrator of the Cannabis Control Division, Department of Revenue, gave an update on the implementation plan. [\(Exhibit 10\)](#)

### **Committee Questions**

- 13:27:32 Sen. Ellsworth asked if there has been a drop in the number of medical Marijuana cardholders.
- 13:28:44 Sen. Ellsworth commented on the 40 pages of rules that Ms. Barbour said were coming, and the seven businesses that did not get licenses due to the new rules. He said he would like to understand how that process came about and what that potentially would look like.

### **Public Comment**

- 13:32:44 Pepper Petersen, Montana Cannabis Guild [\(Exhibit 11\)](#)
- 13:39:02 Kate Cholewa, Montana Cannabis Industry Association

## **ADMINISTRATIVE RULE REVIEW**

### **Rule Review Update**

- 13:41:56 Mr. Walker gave a presentation on Administrative Rulemaking and Rule Review, September 2021. [\(Exhibit 12\)](#)

### **Public Comment**

None.

### **Committee Discussion**

- 13:50:47 Sen. Morigeau discussed MAR Notice No. 24-35-376, and requested that the Department of Labor and Industry come and present the proposed rule change at the next committee meeting.
- 13:51:56 Sen. Ellsworth asked if Sen. Morigeau is looking to object to the rule.
- 13:52:20 Sen. Morigeau said that he would like to understand the rule and what the Legislature's intent was.
- 13:53:55 Mr. Walker explained the timeline of MAR Notice No. 24-35-376. He discussed the informal and formal objection process to a rule.
- 13:56:14 Sen. Morigeau asked Mr. Walker that if the committee informally objects, the department can still adopt the rule even if we like it or don't like it. What opportunities does the committee have to recommend any changes.
- 14:00:00 Sen. Bogner recommends that before the committee makes any objections, that Sen. Morigeau meet with the stakeholders and if there are any specific issues, notify the committee what the objections are and what the suggested course of action would be and that the department will be invited to present to the committee at the next meeting.
- 14:01:10 Mr. Walker said that with an informal objection, the committee does not have to meet in person. A majority of the committee members should send an email to the Presiding Officer, Ms. Sullivan, or him that they object.

### **BREAK**

## **SENATE JOINT 31 – MARIJUANA PROGRAM IMPLEMENTATION**

### **SJ 31 Overview**

- 14:18:33 Ms. Sullivan gave a presentation on the Marijuana Program Implementation ([Exhibit 13](#))

### **Committee Discussion**

- 14:31:01 Sen. Ellsworth liked the option of visiting testing facilities. He said he would like to be on the record of receiving calls that people are concerned that the Economic Affairs Committee has an agenda to try to get rid of medical marijuana cardholders. He clarified that this committee does not pass laws during the interim.
- 14:33:35 Sen. Morigeau commented on having panel discussions and clarifying what that means.
- 14:36:52 Rep. Noland commented on setting a timeline on panel discussions.
- 14:38:09 Sen. Boland commented on the testimony about the seven businesses whose licenses to do business were not renewed because of the new law.
- 14:41:18 Sen. Ellsworth discussed the seven businesses that got the license but then those licenses were rescinded due to a change in law.
- 14:02:32 Sen. Morigeau asked if medical marijuana providers can continue being a provider even if they were in an opted out country.
- 14:40:16 Sen. Ellsworth said the bill is very specific and if they were licensed before November 3, then they are licensed.
- 14:41:06 Sen. Bogner asked Sen. Ellsworth if those medical marijuana providers in those counties that opted in, are they still allowed to sell medical marijuana?



## **COMMITTEE WORK SESSION**

### **Next Meeting Date of November 17, 2021**

- 14:44:56 Sen. Bogner discussed setting parameters on panel discussions, and going on a field trip to look at the lab facilities, doing an October Zoom meeting to discuss the 40 pages of rules from the Cannabis Control Division.
- 14:45:31 Ms. Sullivan discussed possible dates for the October rules meeting and possible dates for touring facilities.

### **Overview of Revised Work Plan**

- 14:47:25 Ms. Sullivan discussed the 2021-2022 Final Work Plan. [\(Exhibit 14\)](#)
- 14:47:42 Ms. Sullivan referred the committee to the Work Plan Meeting Chart but did not discuss it. [\(Exhibit 15\)](#)
- 14:55:14 Sen. Bogner asked Ms. Sullivan to discuss military spouse licensure.
- 14:55:26 Ms. Sullivan said the State Administration and Veterans' Affairs Interim Committee had been approached by the Department of Defense regarding active duty members whose spouses have professional licenses. These spouses need help in transitioning their professional licenses when they return to Montana. Ms. Sullivan said she will provide more information on this at the next meeting.
- 14:57:31 Sen. Ellsworth said that this issue is worthy of discussion.
- 14:58:38 Rep. Ler said that transferring spouses who are teachers and their licensure meshing up with Montana was discussed in the Education Interim Committee.
- 14:59:31 Ms. Sullivan provided the results from the doddle poll for the final EAIC meeting in 2022. [\(Exhibit 16\)](#)
- 15:02:00 The committee members discussed dates for the final meeting. It was the general consensus of the committee that the final meeting will be September 13, 2022.

### **Motion/Vote**

- 15:03:57 Sen. Ellsworth moved to adopt the 2021-2022 Final Work Plan. The motion passed unanimously by voice vote.

### **GENERAL PUBLIC COMMENT**

None.

### **ADJOURNMENT**

- 15:06:05 Sen. Bogner adjourned the meeting at 3:06 p.m.