



## **ECONOMIC AFFAIRS INTERIM COMMITTEE**

### **68th 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 13, 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:**

Sen. Kenneth Bogner, Chair (R)  
Rep. Derek Harvey, Vice Chair (D)  
Sen. Carlie Boland (D)  
Rep. Alice Buckley (D)  
Sen. Jason Ellsworth (R)  
Rep. Joshua Kassmier (R)  
Sen. Shane Morigeau (D)  
Rep. Mark Noland (R)  
Rep. Katie Sullivan (D)

#### **MEMBERS EXCUSED:**

Rep. Brandon Ler (R)

#### **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 final regular meeting of the interim to complete its three assigned studies, review agency legislation proposals, and conduct administrative rule review. The committee:

- Held administrative rule review;
- Held a work session for its independent contractor exemption certificate committee bill;
- Held a work session to review its HJ48 final report and committee bill;
- Held a work session to review its HJ49 final report;
- Held a work session to review its SJ31 final report and committee bill; and
- Reviewed and approved proposed legislation from the:
  - Department of Commerce;
  - Department of Livestock;
  - Department of Labor and Industry;
  - Alcoholic Beverage Control Division; and
  - Cannabis Control Division

The committee voted to:

- Withdraw its informal objection to MAR Notice 42-1052 by the Alcoholic Beverage Control Division;
- Advance PD0019 as a committee bill for the Independent Contractor Exemption Certificate. Senator Morigeau offered to carry the bill with Senator Bogner acting as the backup;
- Advance PD0002 as amended as a committee bill regarding updates to the Criminal Intelligence Information Advisory Council. Senator Bogner offered to carry the bill. A motion was made to bring PD0011 forward again as a committee bill, but the motion failed in a 4-6 roll call vote;
- Advance PD0001 as amended, along with two conceptual amendments made during the meeting, as a committee bill regarding revisions to marijuana laws. Representative Kassmier offered to carry the bill.

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

08:42:02 Presiding Officer Kenneth Bogner called the meeting to order at 8:42 a.m. The committee secretary took roll. **(Attachment 3)**

### **ADMINISTRATIVE RULE REVIEW**

#### **Update on MAR Notice No. 42-1058 and 42-1059**

08:44:30 Jameson Walker, committee attorney, gave an overview of the committee's objections to MAR Notices No. 42-1058 and 42-1059 **(Exhibit 1)** and Notice No. 42-1052 **(Exhibit 2)**.

#### **Response from the Department of Revenue**

08:45:51 Becky Schlauch, Administrator of the Alcohol and Beverage Control Division, Montana Department of Revenue (DOR), discussed the DOR's response to the objections. **(Exhibit 3)** Ms. Schlauch requested that the committee withdraw its objections.

### **Public Comment**

08:46:54 Jennifer Hensley, Montana Distillers Guild

### **Motion/Vote**

08:49:19 Sen. Ellsworth moved to withdraw the committee's objection to MAR Notices No. 42-1058, 42-1059.

08:49:38 Rep. Harvey supported Sen. Ellsworth's motion.

08:50:11 The motion passed unanimously on a voice vote.

### **COMMITTEE WORK SESSION**

#### **Independent Contractor Committee Bill**

08:51:00 Mr. Walker referred the committee to the bill draft, PD 0018: revising independent contractor laws ([Exhibit 4](#)) and PD 0019: revising independent contractor laws ([Exhibit 5](#)). He distributed and discussed the document showing the proposed changes to PD 0018 and PD 0019 ([Exhibit 6](#)).

08:53:57 Sen. Morigeau commented on the bill.

#### **Public Comment on Independent Contractor Bill**

08:56:14 Bryan Thompson, Montana Contractors Association

### **Motion/Vote**

08:58:18 Sen. Morigeau moved that PD 0019 proceed as a committee bill.

08:58:44 The motion passed unanimously on a voice vote with Rep. Ler voting aye by proxy.

09:00:42 Sen. Morigeau will sponsor PD 0019, and Sen. Bogner will be backup.

#### **Final Report of House Joint 48 Study on Facial Recognition Technology**

09:01:22 Erin Sullivan, lead researcher, gave a presentation on the HJ 48 Study final report ([Exhibit 7](#)). Ms. Sullivan discussed PD 0002 ([Exhibit 8](#)).

#### **Public Comment on HJ 48 Study Final Report**

09:03:32 Steve Cape, Coalition for Safety and Justice

### **Motion on PD 0002**

09:15:38 Sen. Ellsworth moved to proceed with PD 0002 as a committee bill.

### **Committee Discussion**

09:15:57 Rep. Sullivan supported Sen. Ellsworth's motion.

09:16:08 Rep. Noland asked for clarification on the purpose of PD 0002.

### **Vote**

09:16:59 The motion passed unanimously by voice vote, with Rep. Ler voting aye by proxy. Sen. Bogner will sponsor PD 0002.

#### **Motion on PD 0011: Establish facial recognition for government use act**

09:17:48 Rep. Noland moved to proceed with PD 0011 as a committee bill.

### **Committee Discussion**

- 09:18:35 Sen. Ellsworth
- 09:19:54 Rep. Sullivan
- 09:21:09 Rep. Noland provided the signed Ban Facial Recognition Technology in Montana petitions, and requested that the petitions be given to the committee. **(Exhibit 9)**
- 09:24:20 Rep. Harvey stated his reasons for opposing PD 0011.
- 09:26:04 Sen. Ellsworth
- 09:28:03 Rep. Noland discussed the draft bill, PD 0011. **(Exhibit 10)**

### **Roll Call Vote**

- 09:36:45 The motion failed on a roll call vote, 4-6, with Sens. Bogner and Ellsworth, and Reps. Noland voted yes, and Rep. Ler voted yes by proxy. Sen. Boland and Reps. Buckley, Harvey, Kassmier and Sullivan voted no, and Sen. Morigeau voted no by proxy.
- 09:37:02 Sen. Bogner and Rep. Buckley commented.

### **Motion/Vote on the HJ 48 Study final report**

- 09:37:54 Rep. Harvey moved to adopt the final report, HJ48 Study on Facial Recognition Technology.
- 09:38:29 The motion passed on a voice vote, 9-1. Sen. Morigeau and Rep. Ler voted yes by proxy. Rep. Noland voted no.

### **HJ 49 Study on Public Assistance Programs**

- 09:40:53 Ms. Sullivan gave a presentation on the HJ 49 Study on Public Assistance Programs. **(Exhibit 11)**

### **Public Comment**

None.

### **Motion/Vote on the HJ 49 Study final report**

- 09:43:35 Sen. Ellsworth moved to adopt the HJ 49 Study final report.
- 09:43:59 The motion passed unanimously on a voice vote, with Sen. Morigeau and Rep. Ler voting yes by proxy.

### **SJ 31 Study on Recreational Marijuana Implementation**

- 09:44:34 Ms. Sullivan gave a presentation on the SJ 31 Study final report. **(Exhibit 12)**

### **Public Comment on SJ 31 Study report**

None.

### **SJ 31: PD 0001-Version 4 Summary**

- 09:48:38 Ms. Sullivan discussed the draft bill, PD 0001 **(Exhibit 13)**, and SJ 31: PD 0001 – Version 4 Summary **(Exhibit 14)**

### **Public Comment on PD 0001**

None.

### **Committee Discussion on PD 0001**

09:57:02 Sen. Ellsworth recommended extending the moratorium on new licensees.  
09:59:09 Rep. Sullivan asked Sen. Ellsworth to clarify which licenses he is proposing to extend the moratorium.  
09:59:47 Sen. Ellsworth said it would be for all licenses.  
10:00:56 Rep. Noland  
10:02:24 Rep. Harvey  
10:03:02 Sen. Ellsworth asked Ms. Sullivan to discuss 16-12-201, MCA, that extends the moratorium.  
10:03:27 Rep. Sullivan asked if the moratorium language will be incorporated into the bill or will it be a separate issue.  
10:03:53 Sen. Ellsworth said it would be incorporated into the entire bill.  
10:04:28 Rep. Sullivan said she needs more time to consider the issue of extending the moratorium.  
10:05:27 Rep. Noland

**BREAK** (reconvened at 10:35 a.m.)

### **Discussion on the proposed amendment to PD 0001**

10:35:08 Sen. Ellsworth discussed the purpose of his motion.  
10:37:55 Ms. Sullivan discussed the changes as proposed by Sen. Ellsworth.

### **Public Comment on Sen. Ellsworth's proposals to PD 0001**

10:39:47 Kate Cholewa, Montana Cannabis Industry Association  
10:42:15 Erica Siate, eXp Consultants  
10:43:10 Pepper Petersen, Montana Cannabis Guild  
10:46:58 Kaari Fulton, Armadillo Buds  
10:49:04 Terry Lucke, Seeley Lake

### **Committee Discussion**

10:50:13 Ms. Sullivan made a point of clarification that the definition of former medical marijuana licensee includes the date of November 3, 2020, which will need to be changed to December 31, 2020.  
10:51:03 Rep. Harvey asked Mr. Walker about potential lawsuits from future businesses looking to obtain a license.  
10:53:38 Sen. Ellsworth  
10:54:30 Sen. Bogner asked Ms. Sullivan about the dates for extending the moratorium.  
10:55:27 Rep. Sullivan asked how the moratorium will impact tribes.  
10:55:42 Sen. Ellsworth  
10:56:15 Ms. Sullivan  
10:58:21 Rep. Sullivan asked if the moratorium language affects the language previously chosen in the cleanup bill.  
10:58:45 Ms. Sullivan  
10:59:00 Rep. Sullivan asked Ms. Sullivan about the effective date.

10:59:19 Sen. Ellsworth  
10:59:54 Sen. Boland asked Sen. Ellsworth if the proposed language regarding the moratorium had been vetted to the public.  
11:00:52 Sen. Ellsworth  
11:02:28 Sen. Boland

**BREAK** (reconvened at 11:10 a.m.)

**Cannabis Control Division's Update on Licenses**

11:13:08 Kristan Barbour, Administrator of the Cannabis Control Division, gave an update on the number of licenses granted to businesses between November 4, 2020, and December 31, 2021.

**AGENCY LEGISLATION PROPOSALS: CANNABIS CONTROL DIVISION**

11:14:52 Ms. Barbour referred the committee to the Cannabis Control Division's Report on License Information ([Exhibit 15](#)) and asked if the committee had any questions.

**Questions from the Committee**

11:15:54 Sen. Ellsworth asked Ms. Barbour if it is the view of the department to continue the moratorium a positive or a negative view.  
11:17:13 Rep. Harvey asked Ms. Barbour for a breakdown of where the 88 businesses are from.

**Presentation of Agency Legislation Proposals**

**Non-Red Tape Initiatives**

11:18:20 Ms. Barbour presented the agency's non-Red Tape Initiatives. ([Exhibit 16](#))

**Committee Discussion**

11:20:32 Sen. Ellsworth

**Public Comment**

11:21:18 Pepper Petersen, Montana Cannabis Guild  
11:22:09 Jennifer Hensley, Fidelity Labs, Missoula

**Red Tape Initiatives**

11:22:30 Ms. Barbour presented the agency's Red Tape Initiatives. ([Exhibit 17](#))

**Public Comment**

11:24:08 Pepper Petersen, Montana Cannabis Guild

**Motion on Cannabis Control Division's Proposed Legislation**

11:24:28 Sen. Ellsworth moved that the Department of Revenue has oversight over the labs.

**Discussion**

11:24:51 Ms. Sullivan discussed the package of bills that the Department of Revenue is requesting and what actions need to be taken.

- 11:25:00 Sen. Ellsworth
- 11:25:15 Ms. Sullivan asked Sen. Ellsworth if his motion was to approve just the statutory spending authority bill for pre-authorization.
- 11:25:20 Sen. Ellsworth discussed his motion.

**Amended Motion**

- 11:26:05 Sen. Ellsworth moved to proceed with the Department of Revenue Cannabis Control Division's proposed legislation.

**Vote**

- 11:28:08 The motion passed unanimously on a voice vote, with Rep. Ler voting aye by proxy.

**AGENCY LEGISLATION PROPOSALS: DEPARTMENT OF LABOR AND INDUSTRY**

**Presentation of bill proposals**

- 11:29:51 Kristen Juras, Lieutenant Governor ([Exhibit 18](#))
- 11:34:32 Eric Strauss, Division Administrator for the Employment Relations Division and the Business Standard Division, DLI (see Exhibit 18)
- 11:40:30 Quinlan O'Connor, Chief Legal Counsel, DLI (see Exhibit 18)

**Questions from the Committee**

- 11:42:34 Rep. Noland asked Mr. O'Connor about the penalty issue in the proposed legislation, UI Theft and Administrative Penalties.

**Public Comment on DLI proposed legislation**

None.

**Motion/Vote**

- 11:45:08 Rep. Harvey moved to allow the Department of Labor and Industry to proceed with its proposed legislation for preintroduction purposes.
- 11:45:38 The motion passed unanimously on a voice vote, with Sen. Morigeau and Rep. Ler voting aye by proxy.

**Further discussion**

- 11:46:09 Mr. Walker discussed Rep. Harvey's concerns regarding issues involving the legality of cannabis statutes that are restrictive to in-state businesses, entities, and owners. The Department of Revenue sent him a link to a webinar relating to cannabis and the commerce clause.
- 11:47:07 Ms. Sullivan discussed the proposed legislation regarding transfer of labs and the moratorium issue.

**LUNCH BREAK** (reconvened at 1:30 p.m.)

**AGENCY LEGISLATION PROPOSALS AND REPORT SUMMARY: DEPARTMENT OF COMMERCE**

**HB 648 Report Summary**

- 13:37:20 Mary Craigle, Research and Information Services Bureau Chief, Montana Department of Commerce, provided an update on House Bill 648.

**Presentation of agency legislation proposals: Housekeeping proposals**

13:44:33 Scott Osterman, Director, Department of Commerce (**Exhibit 19**)  
Director Osterman discussed Proposal #1: revise bond allocation plan; Proposal #2: eliminate the Lewis and Clark license plate pass through; Proposal #3: update the Montana Facility Finance Authority (MFFA) public hearing process; Proposal #4: authorizing STIP program investments for the Native American Collateral Support (NACS) Program; and Proposal #5: create statutory appropriation for Indian Tourism.

**Questions from the Committee**

13:49:15 Rep. Noland asked Director Osterman about Proposal #2.  
13:51:57 Sen. Ellsworth asked Director Osterman about Proposal #5.  
13:52:51 Rep. Noland asked Director Osterman about the money that is used by the State Tribal Economic Development Commission (STED).

**Presentation of agency legislation proposals: Modernize proposals**

14:00:00 Director Osterman discussed Proposal #6: remove MFFA's bond issuance cap and expand MFFA's availability of services; Proposal #7: modernize Big Sky Economic Development Program; Proposal #8: expand Montana exports; Proposal #9: revise distressed wood products program; and Proposal #10: revise the Tourism Advisory Council.  
14:10:10 Adam Schaefer, Deputy Director, said that his last day with the Department of Commerce will be next Tuesday.

**Public Comment**

14:12:06 Stewart Doggett, Montana Lodging and Hospitality Association, expressed support for the proposed legislation.

**Motion/Vote**

14:14:06 Rep. Harvey moved to allow the Department of Commerce to proceed with its proposed legislation for preintroduction purposes.  
14:14:34 The motion passed unanimously on a voice vote, with Rep. Ler and Sen. Morigeau voting aye by proxy.

**AGENCY LEGISLATION PROPOSALS: DEPARTMENT OF LIVESTOCK**

**Presentation of legislation proposals**

14:15:21 Mike Honeycutt, Executive Director, Department of Livestock (**Exhibit 20**)  
14:32:57 George Edwards, Executive Director of the Livestock Loss Board, presented the Livestock Loss Board proposed legislation.

**Public Comment**

None.

**Motion/Vote**

14:37:18 Sen. Ellsworth moved to allow the Department of Livestock to proceed with its proposed legislation for preintroduction purposes.  
14:37:48 The motion passed unanimously on a voice vote, with Rep. Ler and Sen. Morigeau voting aye by proxy.

**BREAK** (reconvened at 3:00 p.m.)



## **MEET AND GREET**

15:05:51 Jerry Howe, Executive Director, Legislative Services Division, introduced himself.

## **AGENCY LEGISLATION PROPOSALS: ALCOHOL BEVERAGE CONTROL DIVISION**

### **Presentation of legislation proposals**

15:10:16 Becky Schlauch, Administrator, Alcohol Beverage Control Division, presented its Red Tape Initiative proposed legislation ([Exhibit 21](#)); non-Red Tape Initiatives ([Exhibit 22](#)); and a supplemental list of non-Red Tape Initiatives ([Exhibit 23](#)).

### **Questions from the Committee**

15:15:17 Rep. Noland asked Ms. Schlauch if there had been any discussions with the Coalition regarding the combined beer and wine bill.

## **Public Comment**

None.

## **Motion/Vote**

15:16:16 Sen. Ellsworth moved to allow the Alcohol Beverage Control Division to proceed with its proposed legislation for preintroduction purposes.

15:16:42 The motion passed unanimously on a voice vote, with Rep. Ler and Sen. Morigeau voting aye by proxy.

## **Further Work on SJ 31 Study**

15:18:03 Ms. Sullivan discussed the changes proposed in PD 0001. ([Exhibit](#)

15:25:31 [24](#)) Mr. Walker

## **BREAK** (reconvened at 3:50 p.m.)

## **Public Comment on SJ 31 Study**

15:51:24 Pepper Petersen, Montana Cannabis Guild

15:52:31 Kate Cholewa, Montana Cannabis Industry Association

## **Motion on PD 0001**

15:55:20 Sen. Ellsworth moved to adopt PD 0001, as amended, as a committee bill.

## **Discussion on the Motion**

15:56:02 Rep. Harvey

15:57:40 Sen. Boland

15:58:22 Sen. Ellsworth

## **Vote**

15:59:11 The motion passed on a voice vote, 9-1, with Rep. Sullivan voting no. Rep. Ler and Sen. Morigeau voted aye by proxy. Rep. Kassmier will sponsor the bill.

## **SJ 31 Study final report**

16:00:29 Ms. Sullivan discussed the proposed changes in the draft SJ 31 Study final report. ([Exhibit 25](#))

**Motion/Vote on the SJ 31 Study final report**

- 16:01:37 Rep. Harvey moved to adopt the SJ 31 Study final report.  
16:02:06 The motion passed unanimously on a voice vote, with Rep. Ler and Sen. Morigeau voting aye by proxy.

**GENERAL PUBLIC COMMENT**

- 16:03:20 Pepper Petersen, Montana Cannabis Guild, commented on PD 0001.  
16:05:27 Kaari Fulton asked about the dates in PD 0001.

**OTHER BUSINESS**

- 16:07:42 Ms. Sullivan discussed staff evaluations.  
16:08:32 Sen. Bogner thanked the committee members and staff.  
16:09:17 Sen. Ellsworth thanked Sen. Bogner.  
16:09:34 Rep. Noland thanked everybody.

**ADJOURNMENT**

- 16:10:57 Sen. Bogner adjourned the meeting at 4:11 p.m.