



Economic Affairs Interim Committee

57th Montana Legislature

SENATE MEMBERS

DALE MAHLUM, CHAIRMAN
DOROTHY BERRY
JON ELLINGSON
GLENN A. ROUSH

HOUSE MEMBERS

KATHLEEN GALVIN-HALCRO, VICE-CHAIRMAN
GARY MATTHEWS
JOE MCKENNEY
STEVE VICK

COMMITTEE STAFF

GORDON HIGGINS
RESEARCH ANALYST
BART CAMPBELL, STAFF ATTORNEY
EDDYE McCLURE, STAFF ATTORNEY
LOIS O'CONNOR, SECRETARY

MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

Fourth Meeting of Interim
Room 137, State Capitol
February 15, 2002

COMMITTEE MEMBERS PRESENT

Rep. Kathleen Galvin-Halcro, Vice Chairman
Sen. Glenn A. Roush
Sen. Dorothy Berry
Rep Gary Matthews
Rep. Joe McKenney

COMMITTEE MEMBERS EXCUSED

Sen. Dale Mahlum, Chairman
Sen. Jon Ellingson

STAFF PRESENT

Gordon Higgins, Research Analyst
Eddy McClure, Staff Attorney
Bart Campbell, Staff Attorney
Lois O'Connor, Secretary

VISITORS

Visitors' list (ATTACHMENT #1)
Agenda (ATTACHMENT #2)

COMMITTEE ACTION

- Approved the minutes from the November 30, 2001, meeting
- Moved the next Committee meeting from April 5, 2002, to April 10, 2002. The SJR 22 Subcommittee meeting will remain on April 4, 2002.

CALL TO ORDER AND ROLL CALL

The meeting was called to order by Rep. Galvin-Halcro, Vice Chair, at 10:00 a.m. Attendance was noted; Senators Mahlum and Ellingson were excused. (ATTACHMENT #3)

Sen. Berry **moved** that the minutes from the November 30, 2001, meeting be approved. Motion passed unanimously.

FINAL RECOMMENDATIONS ON WORKERS' COMPENSATION FEE SCHEDULES FOR PROVIDERS OF PHYSICAL MEDICINE

Jerry Keck, Department of Labor and Industry, provided an overview of the solution reached by the Physical Medicine Task Force regarding the on-going problem of the inequity in provider rates between physical and occupational therapists and chiropractors and an update on the recommended changes to the workers' compensation fee schedules for providers of physical medicine. He also provided a copy of multi-state comparisons on 2002 reimbursement rates. (EXHIBITS #1 and #2 respectively) The Department will proceed to adopt rules to implement the recommendations.

Mark Staples, Montana Chiropractic Association, said that the Association highly endorsed the agreement reached by the Physical Medicine Task Force along with its recommended provider rate changes.

Gary Lucene, Physical Therapy Association, said that the Task Force did a very good job in getting the task at hand on line and for giving good direction for the future.

Judy Bolewicz, Montana Occupational Therapy Association, also approved the agreement reached by the Task Force but said that a considerable amount of more work was needed among the stakeholders to help write the Department rules.

Jacqueline Lenmark, American Insurance Association, and speaking on behalf of George Wood, Montana Self-Insurers Association, said that both Plans #1 and #2 endorsed the Task Force resolution.

Nancy Butler, Chief Legal Counsel, State Fund, supported the resolution.

Sen. Roush asked when the rules would be implemented. Mr. Keck said that all of the stakeholders would get together again for the rulemaking process. All parties must agree upon what the benchmarks are (i.e., how much money is going to be spent in the aggregate and how much money will be paid per visit under the fee schedule). The Department intends to write in the proposed rule a table that states that if the total or if the per-visit amount varies from what is projected to meet the target rate, it would automatically trigger the rate adjustments to ensure that the Department stays within the agreed upon amounts. July 1 is the target date for implementing the new system. The current fee schedule will remain in place until the new schedule is adopted.

Rep. Galvin-Halcro requested a final update after the rules were finalized.

REPORT ON RECENT ADMINISTRATIVE RULE NOTICES RELATED TO BUILDING CODES

Kevin Braun, Attorney, Department of Labor and Industry, provided an overview of recent amendments to administrative rules related to building codes. (EXHIBIT #3) The amendments were in response to questions raised by Mr. Bruce Simon at the November 30, 2001, meeting. The proposed amendments are as follows:

- certificates of occupancy: The Department's existing rule was questionable in light of statutory provisions and the proposed amendment will eliminate any possible conflict with statute.
- uniform housing code for the abatement of dangerous buildings: Because the Department also adopted a rule that stated that cities were free to adopt the codes if they chose to, there was a question as to whether it conformed with statute. The Department repealed the rule and provided specific authority to cities to adopt codes related to the abatement of dangerous buildings.
- definition of farm and ranch buildings: The Department requested direction from the Committee as to the definition of "farm and ranch building". There is a question as to the 160-contiguous acreage portion of the existing rule. The proposed amendment to the existing rule offers an alternative to the current definition of "farm and ranch building" that was taken directly from the existing Uniform Building Codes.

Sen. Roush felt that a farm home building and its square footage was no different than a building of a home in a community. He asked if the problem related to the inspection or appraising of sheds or barns. Mr. Braun said that the question with "farm and ranch buildings" relates to buildings that are outside of the Uniform Building Code, not subject to the code itself, and whether or not those buildings were to be covered by building code regulations or not. For example, is 160 acres a valid part of the buildings codes and the Title 15 tax codes any more given the proliferation of 40-acre hobby farms that meet the income requirements?

Rep. McKenney asked if the Department had been in contact with Mr. Simon, and if so, what was his reaction to the recommendations. Mr. Braun said that the Department had been in contact with Mr. Simon about the proposed amendments and his reaction was very neutral. Rep. McKenney asked if the proposed definition of "farm and ranch building" would go through the rulemaking process and have the opportunity for public comment. Mr. Braun said yes.

Rep. Galvin-Halcro requested an update when the rule had been finalized.

REPORT ON RECENT SCOPE OF PRACTICE ISSUE BEFORE THE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Jim Brown, Administrator, Department of Labor and Industry, provided an overview of the Fire Extinguishing System Design Committee's recommendations and administrative rule proposals related to fire protection system designs. (EXHIBIT #4) During the 2001 Session, one of the key issues included in HB 90 that resulted in its failure was that it attempted to allow only licensed-certified technicians to do layout work for fire protection system designs. However, concern was raised by an individual from Missoula who worked for a fire-sprinkler installation company, who had 20 years experience, and was capable and qualified of doing the layout. There was the perception that the individual would lose the individual's job. The proposed rules are an attempt by the Board to define what a "qualified technician" is.

Gordon Higgins, Research Analyst, Legislative Services Division, said that this issue was brought forth by Sen. Mahlum and other interested legislators. Sen. Mahlum is aware of the process to date and seemed happy with the results. Staff will inform the interested legislators of the previous Department action and allow the Board of Professional Engineers and Land Surveyors to proceed with whatever rule it decides is appropriate.

Rep. Matthews asked if the certification criteria (NICET--job-task, competency-based, engineering technician certification program) excluded individuals such as the person from Missoula. Mr. Brown said no, that the information was only background material on the national level NICET certification program. There is a lack of understanding as to the definition of a person who is referred to as a NICET-level III, certified sprinkler designer. It has nothing to do with the proposed rules. It was made available to inform people of what a person has to go through to become certified as a NICET-level certified sprinkler designer.

Rep. Galvin-Halcro requested that the information be sent to Sen. Mahlum when the proposed rules have been adopted.

REPORT FROM SJR 22 SUBCOMMITTEE

Rep. McKenney stated the following:

- The Office of Budget and Program Planning (OBPP) suggested that there would be no funding available in the state's budget for an expansion of health care unless the Subcommittee changes its priorities (i.e., take money from existing programs or find additional revenue sources).
- There will a Governor's Health Care Summit held in Bozeman in late May 2002.
- Maggie Bullock, Department of Public Health and Human Services, provided an update on Medicaid and the budget crunch and challenges that it is facing.
- John Morrison, Insurance Commissioner, State Auditor's Office updated the Subcommittee on his statewide, roundtable health care discussions. He provided a working document on the direction that his office may take to decrease the uninsured population in Montana and offered possible solutions to the problem.
- The Subcommittee also reviewed an options paper prepared by staff.
 - Some options to decrease the number of uninsured Montanans and to decrease the cost of health insurance were refundable tax credits, medical savings plans, purchasing pools, review what mandated health benefits do to health insurance, expanding CHIP, reviewing high-risk insurance pools and certificate of need, and reviewing prescription drug costs and the possibility of entering into a multi-state purchasing pool.
- The Subcommittee is also reviewing the possibility of a Health Care Authority, a health care inventory, and health care ombudsman.
- Since the Subcommittee could not do everything, it will focus its efforts on the feasibility of refundable tax credits, the possibility of a multi-state purchasing pool for prescription drugs, how to maximize and leverage federal funds through the CHIP program, and review additional funding sources.
- A Task Force was also appointed to study the issue of refundable tax credits.

FUTURE AGENDA ITEMS, COMMITTEE ISSUES, AND ADJOURNMENT

Mr. Higgins requested guidance from the Committee related to Sen. Mahlum's proposed agenda for its next meeting. He said that the Office of Economic Opportunity is in the process of

finalizing its strategic plan. It is traveling the state and presenting the plan for communities to reflect and comment on it in hopes of developing a legislative agenda. The Office of Economic Opportunity believes that a firm strategic plan will be available by April and David Gibson will provide the Committee with an update.

Bob Rafferty, Research and Analysis Bureau, Department of Labor and Industry also volunteered to present information on the economic condition in Montana and some projections about the future as a way to provide background information to the Committee as it begins to see legislative proposals for the 2003 Session.

In addition, the Department of Agriculture's Agricultural Marketing Division would like the opportunity to discuss what it has done in the area of promoting production agriculture, its loan and grant programs, and give some sense of the challenges that agricultural producers in the state are facing.

The Committee agreed that staff go forward with Sen. Mahlum's proposed agenda for the next meeting.

Mr. Higgins said that the Executive planning process (EPP) is a combination of work that the Office of Budget and Program Planning (OBPP) does with the Agencies in terms of establishing the Executive Branch budget through present law adjustments as well as new proposals. The documents must be submitted by April 15. On May 1, Agencies submit their legislative proposals to OBPP for approval. The Committee can begin reviewing draft legislation anytime after an Agency has received approval from the OBPP. The "drop dead" date for the Committee to act as the requestor for proposed legislation is September 13. However, if there is a concept that is proposed prior to September 13 that the Committee would like to have more information on, the Chairman may request that the Legislative Council authorize additional meetings, depending upon the budget. The Committee may meet up to November 1 but only on the proposed legislation of interest, not new legislation.

Mr. Higgins requested guidance from the Committee on whether it wanted staff to work with the State Auditor's Office on a minimal cleanup of Title 33 (insurance statute). The State Auditor's Office is interested in reviewing a chapter under Title 33 that is particularly cumbersome to read and amend. No policy change is associated with the cleanup legislation but simply a way to make it more useful. However, if not careful, it could turn in to a project of massive scope.

The Committee agreed that staff move forward with the cleanup of Title 33 but that they keep the process focused and short.

Mr. Higgins added that required reports that the Committee needs to consider are first, SB 469 (Sen. DePratu) that directed the Department of Labor and Industry to review all of the workforce development programs in the state. The Department will report to the Committee later in the interim. Second, HB 73, the full-cost accounting pilot program. It required several Agencies to engage in a different manner of accounting for the true cost of providing services or products in an attempt to determine whether the method of government accounting could be manipulated to reflect how private-sector accounting methods occur. The Agencies are in the process of engaging in the pilot program but are concerned that the statute was unclear as to what is expected of the Agencies. Staff will draft a letter on behalf of the Committee to the Agencies and

clarify what last interim's committee expected and what the legislation said. HB 73 also requires that the Committee review a report of the findings. It can then either make the recommendation to move forward, expand the pilot, or not renew it if it is not doing what is intended.

The Committee agreed to move the next meeting from April 5, 2002, to April 10, 2002, to give the Office of Economic Opportunity the opportunity to prepare its proposals. The SJR 22 Subcommittee will remain on April 4, 2002.

Sen. Roush said that Montana became a member of the Pacific Northwest Economic Region (PNWER) and, in order to get Montana to participate in the group, PNWER agreed to waive Montana's membership dues for two years. However, going into the next Session, Montana will be asked to pay its dues which is \$30,000 for two years. Options for funding the membership dues are to ask the Governor to add the dues to the budget, to obtain scholarship money from sponsors in or out of state, or from private sector contributions. Sen. Roush said that funding to attend PNWER meetings is not funded by the state or the Legislative Council, and when Montana joined PNWER, it knew that it had to find the funding.

Sen. Roush added that since September 11, the whole criteria of PNWER had changed and that he was unsure whether Montana should continue to be a participant. Since September 11, its focus has been on what would happen if pipelines and dams were blown up in the Pacific Northwest, the Canadian Provinces, Alaska, and the Yukon and the security of the border between Canada and United States. He said that PNWER cannot take any legislative action nor does it have priority with the federal government concerning the border.

In the past, many good things have come out of PNWER, such as agriculture, border trade issues, and many economic development issues. A future agenda item pending is that the Province of Alberta is building 10 large gas generating power plants. However, they are landlocked to the south. There was a proposal to talk with Montana about building a pipeline into northern Montana from Alberta. Currently, Alberta is waiting to see what Montana is going to do regarding transmission lines. Sen. Roush requested guidance from the Committee on how to proceed to obtain the \$30,000 appropriation for the PNWER membership dues. He will also provide an update at the next meeting.

Sen. Berry said that it was a definite feeling that because Montana was not a dues-paying participant in PNWER, it was left out. If it were a paying participant, it would have more say in what was going on.

Rep. McKenney felt it appropriate for the Committee to here a presentation on PNWER to acquire more information about what it does and what its purpose is. If the Committee is favorable, he felt it would also be appropriate to have a Committee bill and that the Committee could be a sounding board for PNWER.

Rep. Galvin-Halcro asked if Sen. Roush had made a presentation to the Transition Advisory Council about the importance of PNWER. Sen. Roush said no because PNWER is not just about energy. It includes issues that deal with agriculture, economic development, and many commerce issues. He felt that it should stay in the Economic Affairs Committee.

Mr. Higgins said that participation in PNWER was legislatively driven. He felt that it would be entirely appropriate for the Committee to receive more information PNWER, assess whether Montana should be a participant, and determine whether there was going to be a change in its focus or scope. Depending on the issues, Director Peck, Department of Agriculture; Director Simonich, Department of Commerce; and people in the Governor's Office would like to work with the Albertans directly through the Advisory Council. The Administration is neutral on legislative participation in PNWER. If the Committee were to hear more from PNWER representatives, it could make a recommendation to the Legislative Council to fund PNWER participation. Staff will work with Sen. Roush to see how it could facilitate a meeting with PNWER representatives and discuss with Lois Menzies on how to approach the Legislative Council on any recommendation.

There being no further business, the meeting adjourned at 12:00 p.m.

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