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Economic Affairs Interim Committee

58th Montana Legislature

SENATE MEMBERS

SHERM ANDERSON
JEFF MANGAN
GLENN A. ROUSH, VICE CHAIR
MIKE TAYLOR

HOUSE MEMBERS

NANCY RICE-FRITZ
JIM KEANE
JOE MCKENNEY, CHAIR
SCOTT MENDENHALL

COMMITTEE STAFF

PAT MURDO, RESEARCH ANALYST
BART CAMPBELL, STAFF ATTORNEY
EDDYE McCLURE, STAFF ATTORNEY
DAWN FIELD, SECRETARY

June 11, 2003

MINUTES

Room 137, State Capitol
Helena, Montana

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.**

COMMITTEE MEMBERS PRESENT

Rep. Joe McKenney, Chair
Sen. Glenn Roush, Vice Chair
Sen. Sherm Anderson
Sen. Mike Taylor
Rep. Nancy Rice Fritz
Rep. Jim Keane
Rep. Scott Mendenhall

COMMITTEE MEMBERS EXCUSED

Sen. Jeff Mangan

STAFF PRESENT

Pat Murdo, Research Analyst
Bart Campbell, Attorney
Eddy McClure, Attorney
Dawn Field, Secretary

AGENDA AND VISITORS LIST

Agenda, Attachment #1
Visitors' list, Attachment #2

COMMITTEE ACTION

- Rep. Joe McKenney was elected Chair.
- Sen. Glenn Roush was elected Vice-Chair.

CALL TO ORDER AND ROLL CALL

Sen. Taylor, as the senior senator, called the meeting to order at 9:15 a.m. and welcomed the new members to the Economic Affairs Interim Committee. Staff members were introduced to the Committee.

Roll call was noted; Senator Mangan was excused (Attachment #3).

COMMITTEE DRAFT WORK PLAN REVIEW

Ms. Pat Murdo, Research Analyst, gave a brief explanation of the draft work plan (Exhibit #1). The following topics were discussed:

- departments and agencies monitored by the Economic Affairs Committee;
- proposed meeting dates and topics;
- duties of the Economic Affairs Interim Committee;
- rule review;
- program monitoring;
- draft legislation;
- study activities;
- member issues and staff recommendations;
- web resources; and
- matrix for prioritizing meeting focus.

Ms. Murdo directed the Committee's attention to the Possible Topics handout (Exhibit #2) and asked the Committee to consider the topics and add their own suggestions.

Mr. Bart Campbell, Staff Attorney, reviewed the rule making procedures with respect to the Committee's obligations (Exhibit #1, page 2) and offered the Committee several options on how the Committee could handle the rule review issues. Mr. Campbell recommended that the Committee direct its resources and attention to situations in which there is a controversy or an objection to a rule. Mr. Campbell distributed a form for the Committee members to fill out, allowing the Committee members to be notified of a specific agency's proposed rules or actions being taken within an agency. Mr. Campbell will use these forms to address specific issues of concern for the individual Committee members.

Sen. Taylor asked the Committee members to study the Possible Topics handout (Exhibit #2) and to choose their top five choices of topics to study. Ms. Murdo advised the Committee of the "crossover" issues with other Interim Committees. Sen. Taylor asked Committee members for additional suggestions for study. Rep. Mendenhall suggested the cluster study presented recently at the Economic Forum in Billings, MT and asked that the Committee consider what the state's role should be in business recruitment. Rep. McKenney added his suggested topic of venture capital to Rep. Mendenhall's list, stating that it would be more efficient to study these topics as a group. Rep. Keane suggested that the Committee work with David Gibson of the Governor's Office of Economic Development to explore these topics. Sen. Roush agreed with combining these topics and asked how much time the Committee was willing to allocate. Sen. Taylor suggested that the Committee make its final decisions later in the meeting.

DEPARTMENT OF COMMERCE (DOC), MARK SIMONICH, DIRECTOR

Director Simonich gave the Committee an organizational chart of the DOC to illustrate the structure of the Department and the programs it administers (Exhibit #3). The DOC is made up of five line divisions that oversee multiple programs within each division and seven boards. Mr. Simonich also asked the Committee to note the DOC's website (www.commerce.mt.gov) and encouraged the members to use this website to further inform themselves of the Department's activities and duties. Other topics covered by Director Simonich but not listed in Exhibit #3:

- moving the Montana Heritage Preservation and Development Commission from the Historical Society to the DOC, a result of SB 232;
- three advisory councils: the Governor's Tourism Advisory Council, the new Economic Development Council created by HB 76, and the Developmental Disabilities Planning Advisory Council; previously attached to the Department of Public Health and Human Services;
- information from the Massachusetts Institute of Social and Economic Research (MISER) indicating exports in Montana have dropped significantly over the past three years. Mr. Simonich said while he cannot give an exact answer why exports are down, there are many factors to consider, including: MISER adopted a different methodology for how it reports exports, decreased production of agricultural products due to drought conditions, Asarco in East Helena closing in 2001, and rising electrical costs that resulted in companies either shutting down or curtailing production, and the downturn of the world economy;
- the Board of Research and Commercialization, which provides grants for research that focuses on products or technology that can be brought to commercialization; and
- HB 76, which creates up to 12 regional groups of economic development organizations to oversee the requirements and administer the funds for the "Certified Community" program identified in 90-1-116.

Rep. McKenney asked Director Simonich to clarify how the 12 economic development regions will be determined. Director Simonich said that the regions won't be determined by the state but through a competitive process among local groups who are willing to work together to provide resources for a certain area. Goals include having every part of the state covered and having as much local input as possible.

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT (GOED), DAVE GIBSON, CHIEF BUSINESS OFFICER

David Gibson gave the Committee a handout (Exhibit #4) which covered the following topics:

- GOED activities since the Legislature adjourned;
- a brief summary of Montana's economic cluster strategy;
- a summary of the 3rd statewide economic summit held May 28 - 29, 2003, in Billings, MT;
- projects of possible statewide significance, including a Department of Energy-sponsored FutureGen coal-to-hydrogen energy generation project;
- key economic development legislation; and

- a summary of the Workforce Training Act, HB 564.

Mr. Gibson also gave the Committee the Montana Industry Cluster Analysis handout (Exhibit #5) which was distributed to the participants at the Montana Statewide Economic Summit held in Billings, MT in May 2003. This handout contains the summary and recommendations prepared for the GOED by Regional Technology Strategies, Inc. and DADCO Consulting Services, Inc.

Rep. Keane asked Mr. Gibson if the natural resource industry would be included in the Workforce Training Act. Mr. Gibson answered that the Workforce Training Act specifies that any primary industry creating 10 or more new jobs is eligible for the funding but emphasized that the jobs must be new jobs, not recalling laid-off workers.

Sen. Taylor referred back to the Possible Topics for Committee Consideration (Exhibit #2) and asked Mr. Gibson if it would be possible to combine the economic development involving the university system with the Workforce Training Act. Mr. Gibson said he supported that idea and suggested including some of the cluster work already done specifically concerning the university system.

Sen. Taylor listed venture capital, cluster study/business recruitment, and economic development/university system/Workforce Training Act as areas of interest to the Committee and asked if the Committee should combine the topics into one study or two. Sen. Taylor also expressed concern about time constraints affecting the ability of the Committee to examine all of the topics. He asked Mr. Gibson to estimate the time needed to address these topics. Mr. Gibson said the topics are all very important and complex and that his office would work with the Committee within any time frame it is given. He recommended allowing one to two hours per topic.

Rep. McKenney recommended leaving the energy issues separate from the other issues and thought the Committee could examine all related issues on the Possible Topics handout in one meeting. Sen. Taylor asked Mr. Gibson to prepare condensed information packets on each topic for the Committee members to be mailed out before the next meeting. The Committee will address these topics at the next meeting. Sen. Anderson asked the Committee to consider only issues that this Committee could have an impact on and stated that there was no need to study topics being addressed by other Committees. The Committee recognized that the Economic Affairs Committee had responsibility for agriculture and livestock issues.

WORK PLAN TOPICS AND SCHEDULE, MEMBER ISSUES

Sen. Taylor referred back to the Possible Topics for Committee Consideration (Exhibit #2) and asked Rep. McKenney to state his topic preferences. Rep. McKenney said his top choices were venture capital programs, economic development, and energy issues.

Sen. Roush asked if the Committee would be duplicating efforts of the Energy and Telecommunications Interim Committee by also studying the energy issues. Ms. Murdo said that the Interim Committees can coordinate their meeting schedules to allow members of each Committee to attend both meetings or the Committee can direct staff to act as a liaison

between Committees. Sen. Anderson asked that the newly elected Economic Affairs Chairman meet with the Chairman of Energy and Telecommunications to make certain there would be no duplication of efforts. Mr. Campbell pointed out that while both Committees are interested in similar issues, the Committees also have different perspectives to address and that some overlap is expected. Sen. Taylor asked Ms. Murdo to work with the new Chairman to develop a more specific plan.

Sen. Roush said he would like to have the Committee examine the impact that high electrical and natural gas rates are having on business and residential customers. With the impending rate increases, Sen. Roush thinks there will be significant effects on businesses and residents. Sen. Anderson agreed the issue of high rates should be examined but thought the Energy and Telecommunications Interim Committee should handle it. He added that the development of these energy resources will be crucial to the economics of the state and the Committee must stay informed of federal legislation that could impact Montana.

Sen. Taylor listed Bovine Spongiform Encephalopathy (BSE/Mad Cow Disease), genetically modified organisms (GMOs) and Country Of Origin Labeling (COOL) as current topics of great importance to the agriculture industry and suggested combining all three topics into one Committee meeting.

Sen. Anderson asked Ms. Murdo how she compiled the topics for the Possible Topics for Committee Consideration list. Ms. Murdo answered that she spoke with Research Director Dave Bohyer, other research staff, various departments, looked at recent legislative bills, gathered on-line information regarding what other states are studying, and took into consideration what the individual interests of the committee members may be. Sen. Anderson asked the staff to contact the Montana Stock Growers and the Department of Agriculture to determine the top priorities for study and said the Committee could focus on those issues.

Rep. Mendenhall said he was interested in exploring the concept of "value added" agricultural products and that Montana was lagging behind our neighboring states in developing this type of program. He added that the university research stations would be a valuable resource to help the ag producers commercialize their goods and market them more aggressively.

Sen. Roush agreed with the three topics listed by Sen. Taylor and with Rep. Mendenhall's suggestion. He said the Committee should ask to be informed of what the university research stations are doing and if the agricultural producers are using/benefitting from their work. Sen. Roush also suggested ethanol production for a study topic. Federal legislation will eventually dictate that ethanol is produced and Montana should be ready to implement production when necessary. Sen. Taylor asked the Committee if allowing one day to study agriculture issues would be satisfactory and the Committee agreed.

Sen. Taylor moved the discussion on to home owner's insurance rates and credit scoring. Sen. Roush said there was a lot of public interest in credit scoring and even though no bills were passed in the last legislative session, he knew the subject of credit scoring would continue to be an issue. Rep. McKenney said credit scoring is quite controversial and the Committee could spend a lot of time on it. He thought the best approach for the Committee would be to keep informed of proposed legislation from the State Auditor's Office or individuals. Sen. Anderson agreed and said there is little an interim committee can do to affect credit scoring, other than through rule review.

Sen. Taylor asked the Committee to decide how to address home owner insurance rates: did the Committee want an oral report, a written report, or some other type of presentation and also asked how much time the Committee wanted to allocate for this topic. Rep. McKenney said because home owners insurance rates are solely market related, the Committee can have little impact and suggested a short informational hearing with the insurance industry to ask why this is happening and what the outlook for the future is. Sen. Anderson agreed and thought the only role that the Committee could play would be to disseminate the information to the public.

Sen. Taylor asked for discussion on the asbestos claims issue and said the Department of Environmental Quality was also studying asbestos claims. There was no further discussion.

Sen. Taylor asked for discussion on federal independent contractors. Sen. Anderson said if another Committee was also addressing this issue, the Economic Affairs Committee need not study it.

Sen. Taylor asked for discussion on the WTO ruling on Canadian lumber. Sen. Anderson said he wasn't sure what impact the Committee could have but stated the ruling had crippled the logging industry in Montana and that over 50% of the lumber mills in Montana have been shut down. He said the tariff has not slowed the down the amount of lumber coming into the United States because of the Canadian subsidy on lumber. Sen. Anderson also said the tariff proceeds were going into a fund and no one involved apparently knows what is happening with the money. Over \$5 million has accrued and was originally earmarked to go to the companies that were directly adversely affected. Sen. Anderson suggested Senators Baucus and Burns and Rep. Rehberg be contacted to see if the funds could instead be directed to the states affected. An "unfair trade practices" lawsuit filed by the Canadian government has prevented any money from being disbursed but Montana should position itself to be ready to apply for and receive a portion of the money. Sen. Anderson went on to say that with the Healthy Forest Initiative being promoted at the state and federal levels, it is imperative that Montana not lose any more of its timbering infrastructure. If it does, Montana will not be equipped to handle the lumber and will lose out on all of the economic benefits. Sen. Anderson suggested one hour of Committee time be used to draft a letter to the United States Congress and the Montana Congressional Delegation requesting their study of the issue.

MS. KAREN BERGER, FINANCIAL SERVICES OFFICER, LEGISLATIVE SERVICES DIVISION, spoke briefly to the Committee about the Legislator Claims for Reimbursement Related to Interim Activities form (Exhibit #6).

Eddy McClure, Staff Attorney for SJR 17, gave the Committee a brief overview of SJR 17 (Exhibit #7) that requires an interim committee to study methods of simplifying laws related to worker's compensation (WC) and occupational diseases (OD) which was assigned to the Economic Affairs Interim Committee by the Legislative Council. Ms. McClure also included MCA Section 39-71-401 (Exhibit #8) that exempts certain employments from WC coverage. The exemption list is quite lengthy and confusing and will be considered under this simplification study. Ms. McClure also pointed out that SJR 17 requires clarification between the Occupational Disease Act and the Worker's Compensation Act. Ms. McClure said the major stakeholders involved would each address the Committee and that the Committee must

decide if they wish to study this issue as a full committee or form a subcommittee to report back to the full Committee. Ms. McClure also called the Committee's attention to correspondence sent to the Committee by individuals unable to attend the meeting but wishing to have input concerning the SJR 17 study (Exhibit #'s 9, 10, and 11).

OVERVIEW OF DEPARTMENT OF LABOR AND INDUSTRY (DOLI), JERRY KECK, ADMINISTRATOR, EMPLOYMENT RELATIONS DIVISION

Mr. Keck's testimony before the Committee (Exhibit #12) included information covering the DOLI's role within the worker's compensation system, an overview of and points of interest within the 2001 Worker's Compensation Annual Report (Exhibit #13) and information on the upcoming Governor's Conference on Worker's Compensation and Occupational Safety and Health (Exhibit #14). Mr. Keck encouraged the Committee to look over the 2001 Annual Report and pointed out several items of interest to the Committee:

- page 3 containing the Declaration of Public Policy of the Worker's Compensation Act;
- page 4 containing a summary of the exemptions of worker's compensation coverage;
- pages 5 and 6 containing a brief summary of a typical worker's compensation claim; and
- on pages 29, 30, 34, and 41, information such as benefits paid over a 5-year time span, dollar distribution and lost wage payments, attorney involvement, and mediation effectiveness.

Mr. Keck stated he would make whatever staff, information, and resources needed available to the Committee to help the SJR 17 study proceed smoothly.

JUDGE MIKE McCARTER, WORKER'S COMPENSATION COURT, gave brief comments regarding the Worker's Compensation System. Judge McCarter said the mediation procedure used to resolve disputes before they get to the court and the court itself are both functioning well. Judge McCarter gave several recommendations on streamlining the Worker's Compensation Act:

- do it with a plan to keep the end product for a number of years and do not keep making changes. It is difficult to predict the ramifications of changes in the short term so give it a chance to work;
- write it as clearly as possible and don't leave any room for the courts to interpret it;
- when drafting a statute, keep in mind how all of the provisions fit and coordinate with one another; and
- when choosing language for the draft, use experienced practitioners in Worker's Compensation, such as attorneys for insurers and claimants. They may have insights that will help the draft avoid pitfalls later.

GEORGE WOOD, EXECUTIVE SECRETARY, MONTANA SELF-INSURERS ASSOCIATION, (PLAN 1), provided the Committee with a handout (Exhibit #15) requesting the Committee

follow the exact language of SJR 17 exempting benefits from the study and to limit the study to only those areas specifically listed in SJR 17.

LARRY JONES, ATTORNEY, LIBERTY NORTHWEST, (PLAN 2), stated he joined with George Wood's comments and his organization is available as a resource and to please feel free to call on them for assistance.

JACQUELINE LENMARK, AMERICAN INSURANCE ASSOCIATION, (PLAN 2), agreed with the comments made by the previous speakers and wanted to emphasize the focus of this study is very narrow and that a seemingly simple change in the law may have dramatic effects. Ms. Lenmark urged the Committee to exercise caution in making any changes. Ms. Lenmark also offered the resources of the American Insurance Association for the Committee's use in studying this issue.

LAURENCE HUBBARD, PRESIDENT CEO, MONTANA STATE FUND, (PLAN 3)

Mr. Hubbard reviewed his understanding of SJR 17 and stated that Montana State Fund supports the intent and goals of SJR 17 (Exhibit #16).

AL SMITH, TRIAL LAWYERS ASSOCIATION (TLA)

Mr. Smith commented the two main complaints his association receives from clients going through the WC system/process are: even when a client is able to collect full benefits, they say the Worker's Comp process is too complex, too confusing, and very difficult to navigate; and how to get through the system: what steps need to be taken, who are the people involved, what is a claimant entitled to, etc. The TLA attempted to simplify the process for injured workers who couldn't get an attorney and has just completed its initial draft. The TLA is willing to work with workers in any way it can to help the system to work. Mr. Smith noted that "just because 98% of claimants are not represented by attorneys, that doesn't mean that all those 98% didn't need the help of an attorney. Most of the time they do need help from an attorney but they can't get it. We turn away more clients than we take because one part of the purpose of the system, which is to get the lawyers out, has been successful. The other part of making it a simple system--so that workers don't need the lawyers--has not been as successful. "

JERRY DRISCOLL, MONTANA AFL-CIO

Mr. Driscoll stated he has been involved with WC since 1987 and has seen drastic changes in the WC laws. He said the multiple and frequent changes to the laws and regulations make it very difficult and confusing for injured workers to determine which laws apply to their case. He would like the State of Montana to handle these changes in a more timely manner to eliminate some of the difficulty and confusion and to have the Supreme Court specify applicability dates for their rulings. The lack of applicability dates make the laws even more difficult to interpret. Mr. Driscoll also said the terminology defining an "occupational disease" and "work related

injury" needs to be clarified because an occupational disease allows up to two years to file for benefits and a work related injury allows only 30 days to file. The current law in combination with recent court rulings doesn't clearly differentiate between the two. Mr. Driscoll also made the observation that there are no clear laws governing the settling of medical benefits. Some injured workers and insurance companies will make lump sum payments, others won't, and no one knows what's legal and what's not.

Mr. Driscoll made his final point by stating that the biggest stakeholder in this process is the injured worker and, in his opinion, it is the stakeholder who has been left out. He asked the Committee to specifically include them in the SJR 17 study. Mr. Driscoll said this group had valuable insights and suggestions to offer.

BILL PRICE, INDEPENDENT INSURANCE AGENT, (PLANS 2 AND 3)

Mr. Price stated he represented the independent insurance agents of Montana. He told the Committee independent agents work with privately insured employer groups and Montana State Fund and one of their duties is to explain to an employer who is covered and who is not under the WC laws. He said most agents are quite familiar with 39-71-118, MCA, (Employee, worker, volunteer, and volunteer firefighter defined). Mr. Price said agents are particularly interested in 39-71-401, MCA, (Employments covered and employments exempted) which has five pages of definitions of employees and exclusions. This section is long and very confusing to both the insurance agents and the employers, he said adding: "it just seems there must be a way to make that more simple".

Mr. Price said employers also expect insurance agents to be experts on independent contractor status, which also is very confusing to both employers and agents because of issues such as implied contracts, verbal contracts, and written contracts, and what makes each one a legal and binding agreement. He said many workers rely on implied or verbal contracts when pursuing a job and never get around to creating a written document. When the worker is injured and decides to claim employee status versus independent contractor status, it creates a situation subject to great question.

Mr. Price also commented he thinks 39-71-118, MCA, contradicts itself where it addresses employees as volunteers. He questioned how one could be both an employee and a volunteer simultaneously. He urged the Committee to clear up this sort of language in the WC laws.

Mr. Price spoke of the AB Test (under 39-71-120(1)(a) and (1)(b)) for determining independent contractor or employee status. He said that it was once a simple tool to use for determining employee or independent contractor status but that is no longer the case. He encouraged the Committee to keep simplicity in mind as they conduct the SJR 17 study.

Mr. Larry Jones brought to the Committee's attention two letters submitted from George Willet and Robert Allen (Exhibit #'s 9 and 10) and relayed a telephone message from Mike Collins, President/CEO of Winter Sports, Inc.; the communications encourage the Committee's efforts in simplifying and clarifying the WC Laws, especially as they pertain to the recreational activity exception to employment.

Sen. Roush commented that most of the testimony heard at this meeting mentioned "independent contractor" and said there was a need to address this issue. Jerry Keck, DOLI, answered that SB 270, passed in the 2003 session, will do exactly that. The DOLI has been directed to conduct the study and the members of the study will be broadly representative of all those who are involved with the IC issue. The purpose of SB 270 is to formulate recommendations and guidelines for the next Legislature to consider, in order to make changes that will clarify and simplify the definition of "independent contractor". Mr. Keck said the DOLI would coordinate with the SJR 17 study and the Committee will be kept informed since the two studies are so closely related. Mr. Keck also informed the Committee that he had personally contacted a number of individuals who agreed to serve on the SB 270 study and said Wendy Keating, Commissioner of the Department of Labor and Industry, will soon be sending out letters of appointment to the following:

- Webb Brown - Montana Chamber of Commerce
- Riley Johnson - National Federation of Independent Businesses (NFIB)
- Brian Smith - Montana Motor Carriers
- Jim Nyes - representing small employers
- Bob Worthington - Worker's Compensation Insurers, Plan 1
- Larry Jones, Jacqueline Lenmark - representing Plan 2 groups
- Nancy Butler, Montana State Fund, Plan 3
- Cary Hegreberg - Montana Contractor's Association
- Byron Roberts - Montana Building Industry Association (MBIA)
- David Cogley - local builder and MBIA representative
- Carl Schweitzer - American Subcontractors Association
- Jason Miller - secretary of the Pacific Northwest Regional Council of Carpenters
- Jerry Driscoll - Montana AFL-CIO
- Larry Mayo - Montana Building Trades Council
- Jerry Keck - DOLI

Mr. Keck went on to say that two recent Supreme Court decisions "turned upside down" the way the DOLI and the principal people involved in the WC system deal with independent contractors. For years, exemptions have been issued to IC's based on a signed affidavit that asserts the IC is free from the exercise of direction and control and operates in an independent business occupation or trade. The Worker's Compensation Court has consistently upheld that self declaration and the IC exemption issued by the DOLI was conclusive as to the status of a person as either an employee or an independent contractor. If the IC had the exemption in place, then he or she was not entitled to WC benefits. In a recent decision the Supreme Court majority said that declaration was not sufficient, that a cursory review of the AB Test had to be done. If the situation brought before the court looks like the IC is an employee, then payment of benefits can't be avoided because of the affidavit. The IC exemption will no longer be a determinative indicator of their status.

Sen. Anderson said it seems most people associate the issue of independent contractors with just worker's comp but it really pertains to the entire issue of independent contractors, which covers all forms of liability. Sen. Anderson asked if he was correct in his understanding that this Committee's direction is to deal specifically with WC and the other DOLI group is going to deal with the entire picture of IC. Mr. Keck answered that he was correct in that understanding and SB270 will have to cover a broad range of topics associated with independent contractors.

Sen. Taylor asked Mr. Keck, in view of the recent Supreme Court ruling, if a signed agreement

between a worker and, for example, a single dwelling homeowner, would be sufficient to designate independent contractor status. Mr. Keck answered it would behoove the homeowner to have verification of IC status before the work begins but even then it could still be subject to court interpretation. **Kevin Braun, Chief Legal Counsel, DOLI**, told the Committee it would depend a great deal on the circumstance. A homeowner having work done on his own home would probably be deemed "casual employment" and not be subject to the ruling. If the homeowner owns apartments/rentals and acts as the general contractor, then he would most likely be subject to all laws pertaining to the Workers Compensation Act.

Jerry Driscoll, AFL-CIO, stated that an independent contractor is subject to little or no supervision by the person/entity hiring the IC. The two parties involved agree on a specific price for work completed by a specific date and there can be little control beyond that.

Sen. Anderson said it was important to keep in focus IC reform is not the Committee's charge. The Committee's charge is to look at simplification of WC. Oversight of the other studies by this Committee is all that is necessary. Rep. Keane said in his opinion, the IC issue is tied to the WC study because the two overlap. Rep. McKenney said no one on the Committee was an expert on the WC issue and that the WC study will be the primary focus of the Committee. He said it would be necessary to rely on all those who had testified at today's meeting for guidance and suggestions on how to clear up the areas of confusion. Rep. Nancy Rice Fritz suggested contacting neighboring states to see how they handled these same issues. Sen. Taylor said there should be some consensus among the different groups in attendance and asked the different groups to have a list of recommendations prepared before the October 23 - 24 meeting date. The Committee members would then have time to review the suggestions and be ready to discuss and act on the suggestions. Sen. Anderson agreed that for the sake of efficiency the groups and individuals involved must have some specific suggestions before the next meeting. Mr. Wood suggested dividing the stakeholders into three groups, have each group outline its recommendations, and then have the three groups meet and combine for one master list of suggestions. Ms. McClure said she would coordinate the meetings and oversee consensus. Sen. Anderson asked for clarification on which groups are participating in this process. He said he could think of four: the insurers, the claimants, the employers, and the courts. He emphasized that no one should be excluded from the study.

Laurence Hubbard, Montana State Fund (MSF), addressed the Committee concerning SB 304 (Exhibit #17). Highlights included:

- MSF Structure;
- MSF Legislative History;
- MSF Numbers: policies, earned premium, policyholders, etc.;
- What SB 304 does;
- MSF view on SB 304; and
- MSF Vision.

The Committee made several changes in the Committee meeting schedule (Exhibit #18). The June 2004 meeting date will be changed from June 25 - 26 to June 24 -25. Ms. Murdo asked to move the March 10, 2004 meeting to March 11, due to a conflict with the EQC meeting scheduled for the 10th also. The Committee agreed to the changes.

Claudia Clifford, Policy Advisor, State Auditor's Office (SAO), asked the Committee for direction on what information the Committee would like to hear from the SAO. The SAO has worked on issues such as homeowners insurance, how to address those without insurance; credit scoring, and venture capital. Sen. Taylor said this Committee would like a report on venture capital for the next meeting and a report on homeowners insurance at a later date.

Ms. Murdo went over the handout from Karen Berger detailing the comparison of Session versus Interim payments for expenses (Exhibit # 19).

PUBLIC COMMENT

There was no public comment given.

Rep. Mendenhall had a question concerning Tourism Promotion mentioned in Exhibit #3. He thinks that Montana is "woefully lacking in economic development efforts" and would like the Committee to explore the possibility of sharing funding/staff/resources with the Tourism Council to promote economic development in Montana. Rep. McKenney asked if the funding he referred to was the bed tax money collected and allocated to the Tourism Council. Rep. Mendenhall said yes, that was the funding he was interested in. Representatives Keane and McKenney both stated the proposal to share bed tax money would cause controversy but agreed that it was an interesting idea and worth pursuing. Sen. Anderson said the Department of Commerce falls within the Economic Affairs Committee monitoring duties and that as an accountability issue, it would not be out of line to ask to be informed of how those funds are being used. The Committee agreed to allow an hour at a future meeting to explore this topic. Rep. Mendenhall will coordinate the arrangements.

ELECTION OF OFFICERS

Sen. Taylor said that traditionally, the Chairman of the Committee alternates between the House and the Senate. He opened the floor to nominations and asked the candidates to state why they want to be Chairman. Sen. Roush commented that in addition to alternating between House and Senate, the Chair also alternated between the Republican and Democratic parties. He said it was a tradition, not a requirement, but something he would like this Committee to carry on. Sen. Taylor also discussed proxy votes. A proxy vote is acceptable for officer election, he said, but careful judgment and discretion must be used when using proxies, especially in a situation where issues could change due to an amendment that had not been heard by an absent member.

Sen. Roush nominated Rep. Keane for presiding officer. Rep. Mendenhall nominated Rep. McKenney for presiding officer. Rep. Keane said his reasons for wanting to be chair were partially due to history, since the last two chairs of the Committee had been Republican Senators. Rep. Keane said, "It is fair and appropriate that a House Democrat be elected chairman" and also said it is important for the minority party to be able to participate and have experience leading a committee. Rep. Keane also thanked Rep. McKenney for being on the Business and Labor Committee and for being his mentor and said he has a great deal of respect for him. Rep. Keane assured the Committee he would do the best job he possibly could to fulfill the duties if elected. Rep. McKenney stated his reasons for wanting to be chair.

He said it was more important to choose a chair based on house history than it was party affiliation. He stated that an interim committee is different from a legislative committee because it is bipartisan and has equal members for both parties. Rep. McKenney said, "We have to work together, not only as a committee but with members of interested parties. I feel I have the ability to do that and would be happy to be your chairman." A secret ballot election was held. Rep. Keane received three votes and Rep. McKenney received five votes (Exhibit #20). Rep. McKenney was declared the new presiding officer of the Economic Affairs Interim Committee. Chairman McKenney thanked Sen. Taylor for the good job he did as Acting Chair. Sen. Roush was elected Vice-Chair.

INSTRUCTIONS TO STAFF

There were no further instructions to staff.

MEETING ADJOURNED

The meeting was adjourned at 3:45 p.m.

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