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# Economic Affairs Interim Committee

## 59th Montana Legislature

### SENATE MEMBERS

JOHN BRUEGGEMAN  
VICKI COCCHIARELLA  
KEN HANSEN  
DONALD STEINBEISSER

### HOUSE MEMBERS

DAVE GALLIK  
JIM KEANE  
TOM MCGILLVRAY  
MIKE MILBURN

### COMMITTEE STAFF

PATRICIA MURDO, Lead Staff  
BART CAMPBELL, Staff Attorney  
DAWN FIELD, Secretary

# MINUTES

June 24, 2005

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 the document.**

### COMMITTEE MEMBERS PRESENT

SEN. VICKI COCCHIARELLA  
SEN. KEN HANSEN  
SEN. DONALD STEINBEISSER

REP. DAVE GALLIK  
REP. JIM KEANE  
REP. TOM MCGILLVRAY  
REP. MIKE MILBURN

### COMMITTEE MEMBERS EXCUSED

SEN. JOHN BRUEGGEMAN

### STAFF PRESENT

PATRICIA MURDO, Lead Staff  
BART CAMPBELL, Staff Attorney  
DAWN FIELD, Secretary

### AGENDA & VISITOR'S LIST

Agenda, [Attachment #1](#).  
Visitors' list, [Attachment #2](#).

## **COMMITTEE ACTION**

The Economic Affairs Interim Committee:

- elected REP. KEANE Chair for the 2005-2006 interim;
- elected SEN. STEINBEISSER Vice Chair for the 2005-2006 interim;
- approved sending a letter to Governor Schweitzer requesting that he appoint board members to the Montana Capital Investment Board and provide funding for the first meeting;
- adopted the SJR 35 study plan as presented with two additions:
  - ▼ directed staff to notify Montana licensees by postcard of the survey and accepted the offer of the Department of Labor and Industry to pay the mailing costs of the SJR 35 survey;
  - ▼ directed staff to formulate public service announcements for the SJR 35 board survey publicity campaign;
- adopted the SJR 38 study plan as presented;
- tentatively adopted the proposed meeting schedule;
- appointed REP. KEANE and REP. MILBURN to be the legislative liaisons to the Montana State Fund Board of Directors meetings; and
- appointed REP. MCGILLVRAY and SEN. HANSEN to the Rail Services Competition Council.

## **CALL TO ORDER AND ROLL CALL**

### **TAPE 1 - SIDE A**

SEN. COCCHIARELLA called first meeting of the 2005-2006 Economic Affairs Interim Committee to order at 9:03 a.m. The secretary noted the roll ([ATTACHMENT #3](#)). SEN. BRUEGGEMAN was excused; all other members were present. Staff and member introductions were made.

**Pat Murdo, Research Analyst, Legislative Services Division (LSD)**, reviewed the statutory duties of the Economic Affairs Interim Committee (EAIC) for the ensuing interim, as outlined in 5-5-215, MCA ([EXHIBIT #1](#)). Ms. Murdo noted that the Committee has been charged with several new duties, as listed in EXHIBIT #1.

**Bart Campbell, Staff Attorney, Legal Services, LSD**, explained the administrative rule process (EXHIBIT #1) and reviewed the agencies that the Committee will be monitoring throughout the interim (EXHIBIT #1). Mr. Campbell offered the Committee the option of either having him present all of the proposed administrative rule changes to the Committee for its consideration or having him review and screen the proposed administrative rule changes and present only those that may warrant further attention from the Committee.

Ms. Murdo reviewed the *RULES, PROCEDURES, AND GUIDELINES for INTERIM COMMITTEES* ([EXHIBIT #2](#)), including the travel and reimbursement expenses allowed for Committee members.

Ms. Murdo presented the Economic Affairs Interim Committee 2007 Biennium Budget and also discussed a cost summary table listing the projected expenses for the Committee ([EXHIBIT #3](#)).

SEN. HANSEN asked Mr. Campbell, regarding proposed administrative rule changes, how he could obtain a specific board's meeting minutes, if that board was of particular interest to him. Mr. Campbell said he could make sure that SEN. HANSEN was provided the minutes or he could direct the specific board to contact SEN. HANSEN directly. Ms. Murdo said the minutes also are on the Internet and that she would provide a sign up sheet to sign up for administrative rule notices.

### **ELECTION OF OFFICERS**

SEN. COCCHIARELLA asked for nominations for Chair. SEN. HANSEN nominated REP. KEANE for Chair. REP. MILBURN **moved** to close nominations and to elect REP. KEANE as Chair. The motion **passed** on a unanimous voice vote.

REP. KEANE nominated SEN. STEINBEISSER for Vice Chair. SEN. HANSEN **moved** to close nominations and to elect SEN. STEINBEISSER as Vice Chair. The **motion** passed on a unanimous voice vote.

### **END OF TAPE 1 - SIDE A & ALL OF TAPE 1 - SIDE B**

### **GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT (GOED)**

**Evan Barrett, Chief Business Officer, GOED**, presented a detailed report - *Schweitzer/Bohlinger "New Day" Economic Roadmap* ([EXHIBITS #4](#) and [#5](#)) - which included information on:

- economic development targets;
- legislative accomplishments;
- GOED staffing; and
- present and future projects.

**Tony Preite, Director, Department of Commerce (DOC)**, presented *New Economic Development Initiatives* ([EXHIBIT #6](#)), consisting of three major components:

- grant and loan initiatives;
- technical assistance programs; and
- tax incentive programs.

**TAPE 2 - SIDE A** - Preite presentation ([EXHIBIT #6](#)), continued

**Andy Poole, Deputy Director, DOC**, outlined the 2005 "Made In Montana" summer billboard advertising campaign (Page 8 - [Exhibit #6](#)). Mr. Poole said the Department has purchased billboard advertising throughout Montana to promote Made In Montana products to residents and visitors. The program is expected to expand in the summer of 2006.

Mr. Preite continued his presentation, discussing economic development tax incentive initiatives (Pages 10 and 11, [Exhibit #6](#)).

SEN. HANSEN asked how Montana Reservations have responded to the \$500,000 Indian Country Economic Development funding. Mr. Preite said he has visited all seven reservations and all are interested. Rules must be established on how to distribute the funding before any will be allocated. The plan is to leverage the funding with other programs to create an even greater benefit. Mr. Preite said caution will be used when dividing the funding between the reservations.

REP. GALLIK commented, in reference to the recent United States Supreme Court ruling that economic development is a valid reason for the taking of private property rights, that the Committee may wish to consider taking action on this issue. He suggested having research done to determine if there is a need to establish statutory "sideboards" in order to provide specific guidelines for the taking of private property rights in Montana. He asked Mr. Barrett if he has discussed this issue with the Governor and what the Governor's stance is on the issue. Mr. Barrett said he has not had an opportunity to discuss the recent ruling with the Governor. He said abrogating personal property rights is not done easily by anyone, even if they have the right to do it. Mr. Barrett said the Governor's Office would use great caution when dealing with any situation involving the taking of private property. He agreed that there needs to be discussion of whether or not policy sideboards should be established.

REP. GALLIK also discussed energy transmission in Montana, saying that it is a critical issue facing Montanans. He said not only is it an energy issue and an economic development issue, but could fall into the realm of eminent domain as well. He said he has heard talk at the federal level of using eminent domain to build transmission lines and that Montana could find itself at the center of such a situation. He suggested the Committee add this issue to its work plan, particularly on creating an energy policy for the state. REP. GALLIK reported that the Energy and Telecommunications Interim Committee met recently and placed energy transmission at the top of its priority list. Mr. Preite said he has already contacted the Governor's staff attorney to ask that this issue be researched. He agreed with REP. GALLIK that this is a very important issue and must be dealt with in a prudent manner.

REP. MILBURN said one of the most important prerequisites for a successful economic development program is a competitive and fair tax structure. He said he has been overwhelmed with concerns from business entities worried about this issue. He said he didn't see it in the plan from the Governor's Office and asked if it is the Governor's policy to keep taxes at a minimum. Mr. Barrett said the Governor is very proud of the fact that his Office has funded necessary programs, kept a good ending fund balance, financed education programs, and has not had to create any new taxes. The Governor plans to maintain that position. The Governor's Office feels that the existing tax structure is adequate to help create economic development. Montana is fairly competitive with other western states, due to: the low or moderate business equipment tax, corporate tax, and property tax; the lowering of the top marginal rate of income tax; and the capital gains tax cuts that were maintained by the 2005 legislature. Mr. Barrett said there are no red flags flying over Montana for companies looking to relocate to Montana.

Mr. Preite added that because of the actions taken by this past Legislature, such as the enhanced funding and workforce training programs, the Big Sky dividend, and the fact that the Department has the opportunity to leverage all those funds and to combine when necessary, that Montana is very competitive regionally.

REP. KEANE asked Mr. Preite to discuss workforce investment and training, specifically how the Workforce Investment Act is being implemented in Montana. Mr. Barrett said that decision is not yet final. REP. KEANE asked if the **federal funding** will be provided to the operators working the programs. Mr. Barrett said that would be done and added that a two-year plan has been adopted by the State and submitted to the federal government. The State anticipates that the plan will be accepted as submitted. Then the State will begin the process of implementing it. As the funding is received, it will be disseminated through the normal processes and procedures until there is a need for change.

REP. KEANE asked if any of the funding would be used for creation of new jobs. Mr. Barrett said the 2005 Legislature appropriated \$1.4 million each year for the next biennium, for a total of about 280 jobs per year. He said he had hoped for more, but that the money might be stretched if the training costs less than \$5,000 per worker. REP. KEANE asked if there is a list of people who have applied for those funds. Mr. Preite said there is a list of applicants and that the demand for the money will likely far exceed the supply.

Andy Poole said the Governor recently appointed the Grant Review Board that will review applications for new worker training grants. The Board has not met yet and the rules will be adopted when the Board meets. The Department is aware of companies who are interested in these funds but it will be several weeks before it begins accepting applications. REP. KEANE asked Mr. Poole to notify him when the Board schedules the meeting. Mr. Poole said he would do that.

#### **UPDATE ON VENTURE CAPITAL PROJECT**

REP. KEANE reviewed the last interim's work on venture capital investments. He said the Committee would continue to build on the work done last interim.

**Dave Almodovar, Credit Suisse First Boston (CSFB)**, said CSFB is working with the Montana Board of Investments (BOI) in a regional investment program that includes Montana, Idaho, Utah, Eastern Oregon, and Eastern Washington. Mr. Almodovar gave an overview of the investment program and discussed the CSFB structure, program management, and implementation ([EXHIBIT #7](#)).

#### **TAPE 2 - SIDE B**

Mr. Almodovar closed his presentation by stating that CSFB conducted an extensive study of Montana and found that Montana has a strong competitive advantage in the areas of information technology and life sciences. The university systems in Montana have generated a lot of research in these two areas and there is great potential for technology transfers, thus creating a unique economic development opportunity. CSFB operates all of its programs from a "return first" perspective, is very proactive, and pays close attention to its investments. He said Montana should get a pat on the back because many states have looked at doing this kind of a program but they have not taken the steps to actually implement one.

REP. KEANE said he appreciated the time that CSFB and the BOI have spent working together in creating the investment program. He asked how long it would take for the program to get to

the point where there would be money to invest in Montana. Mr. Almodovar said it would take about one year to get the program completely up and functional.

Ms. Murdo announced that she has copies of the contract between CSFB and the BOI available to anyone wishing to review it.

### **Funding of SB 133**

Even Barrett, GOED, explained the history of Senate Bill 133 - the "Fund of Funds" bill. He distributed a May 12, 2005, letter he sent to Carroll South, Executive Director, Montana Board of Investments ([EXHIBIT #8](#)) addressing the fact that SB 133 was left unfunded by the 2005 Legislature. Mr. Barrett explained that because of the lack of funds, the GOED will not implement the bill unless \$200,000 of alternative funds are secured and deposited with the Department of Commerce. He said if the funding is secured, the board will be appointed and the GOED will implement the program.

REP. KEANE asked if a board could be appointed if the members were willing to serve without pay. Mr. Barrett said he thought the requirement that board members be willing to serve without pay, even for a short time, would artificially limit the pool of talent that would be willing to serve. Furthermore, the board has to represent the public, so a number of the players who were supportive of this bill would not necessarily end up on the board. The GOED anticipates that funds will be found, such as a donation, for example, and that there will be a way to make them public funds, in order to earmark them for SB 133. Mr. Barrett said he envisioned only a 90 to 120 day delay and assured the Committee that the GOED would use great care to follow proper procedures.

REP. KEANE said that SB 133 was passed by the Legislature and signed into law by the Governor, despite that fact that the funding was removed. He said that it didn't make sense to him that economic development is one of Governor Schweitzer's top priorities and yet a bill that is exactly that is not being implemented. Mr. Barrett said the GOED would be happy to receive a legislative loan for SB 133 and implement it. He said he does not see the current lack of funding as a huge delay and that if significant progress is being shown, the GOED will formulate a prospective list of board members. Mr. Barrett said he understood the Committee's frustration but that the Governor's Office, like any other, has to operate within its budget.

REP. KEANE asked if the Governor intended to include SB 133 as a part of the special session. Mr. Barrett said that could be discussed, but that he was confident the funding would be found before the special session.

### **PUBLIC COMMENT**

**Jon Marchi, Montana Ambassadors and Glacier Venture Fund**, wished to compliment the 2003-2004 Economic Affairs Committee on its diligent work on SB 133. He said Rep. McKenney and Sen. Mangan carried the bill in the House and Senate, respectively, and in both cases, there was a great deal of bipartisan support. Mr. Marchi agreed that the \$200,000 funding, or lack thereof, is a significant problem for the bill because valuable time is being wasted. He said that anything that this Committee could do to help resolve this issue would be very much appreciated. He said he is working with Mr. Barrett in pursuing funding for the bill.

**Rep. Jeanne Windham, HD 12**, said she had testified to the previous Committee in support of a venture capital bill and that she was profoundly disappointed that SB 133 was not funded by the 2005 Legislature. She said it is her position that the State really can't create wealth but that the State can assist those who can and that is what economic development is about. The State partners with local governments and the private sector to expand businesses, and to assist those that can create viable businesses. Rep. Windham said she is fearful that the opportunity may have been missed so every month that goes by with nothing happening is a month lost. She said she had several suggestions on what could be done and said:

- it would cost nothing to appoint the five member board;
- she believes there are those who would be willing to serve without compensation and would not limit the pool of qualified candidates; and
- a part-time administrative person may have to be hired to assist with board functions.

Rep. Windham said the bill stipulates that the board may expend funds and enter into contracts. She asked if the board would have the legal authority to borrow funds to get the program started, as a possible option to get it going. The funds could be repaid when the funding is found. She strongly urged the Committee to support SB 133 and find a way to fund it.

**John O'Donnell, Executive Director, TechRanch**, said that TechRanch in Bozeman and many other organizations in southwestern Montana are in the hub of what might be considered private equity fundable companies. He agreed that the lack of funding for SB 133 is a definite missed opportunity for Montana. Montana has many opportunities that could be leveraged, such as research being done within the university system and quality of life. Savvy entrepreneurs will not make the move to Montana until the last component is in place, and that is private equity infrastructure. SB 133 presents the opportunity to put this missing component in place and get the ball rolling. Mr. O'Donnell said it is important to understand that most venture capital deals are done in syndication and that most of the syndicates are built with venture funds from around the country. Very few will invest in Montana until there are local lead investors, who will serve on the board of investors and monitor the investments. These investors are very intrigued with what is going on in Montana, particularly with the research being done at the universities. Mr. O'Donnell expressed concern that the economy is very healthy at the moment but if too much time passes, Montana may have missed a golden opportunity to get the infrastructure established.

SEN. COCCHIARELLA asked Mr. Campbell if a board could be appointed without an appropriation and if it could borrow funds to cover initial expenses. Mr. Campbell said he would have to review the bill before he could say definitively.

### **TAPE 3 - SIDE A**

SEN. COCCHIARELLA said she would like to get SB 133 funded and not have to wait for the special session. She urged the Committee to determine if it could do anything to provide funding for the bill. She said that if the issue does have to wait for the special session, the Committee needs to formulate a plan to address this with the full Legislature.

REP. MILBURN asked Mr. Barrett to discuss the possible sources of funding he intends to pursue, in order to fund SB 133. Mr. Barrett said both he and Mr. Marchi feel that there is probably a private source or several sources that would be willing to provide the funding. Mr.

Barrett said he would take the Committee's concerns regarding SB 133 to the Governor, specifically that the Committee supports the early appointment of a board. REP. MILBURN encouraged Mr. Barrett and Mr. Marchi to continue their efforts to acquire funding for SB 133.

SEN. COCCHIARELLA said she was unsure if private funding, if found, could legally be appropriated to SB 133 and suggested researching how or if that could be done.

REP. KEANE said the Committee wants this bill to go forward as rapidly as possible. Even though the Governor may not want to put SB 133 in the Special session, this is part of his economic development package and should be implemented. Mr. Barrett said he did not mean to leave the impression the SB 133 would not be a part of a special session call, only that the Governor is reluctant to expand the call. He assured the Committee that the Committee's concerns would be brought to the attention of the Governor. REP. KEANE said he would like to know what the Governor's response is.

SEN. COCCHIARELLA **moved** to have staff write a letter to the Governor asking him to make the board appointments as soon as possible and to fund the first meeting out of the Governor's budget. SEN. COCCHIARELLA said she learned over the lunch break, that as of June 2005, it is anticipated that there will be an ending fund balance of \$267 million. She referred to the copy of SB 133 ([EXHIBIT #9](#)) and read page 3 (section 4, number 4), regarding meeting requirements. She said the Committee did not have any say over how the Governor spends his budget but that this issue needs to be resolved.

REP. GALLIK asked what would happen if the Governor declines to act on the Committee's request. SEN. COCCHIARELLA suggested that the Committee bring the issue before the Legislative Council to see if private funding would be allowed. The Legislative Council may have a say in allowing private money to be spent for this purpose. She said the Council is meeting in September but a teleconference could be arranged if action was needed before then.

REP. GALLIK asked SEN. COCCHIARELLA to clarify that her motion was to have the Governor fund the first meeting. SEN. COCCHIARELLA said her motion was to appoint the board and fund the first meeting. SEN. GALLIK asked Mr. Campbell if legal problems would result from asking for funding from the Governor or from another source. Mr. Campbell said after reviewing SB 133, it is his understanding that the board is mandated to meet at least once a year. He said it is his opinion that the board has to be appointed this year and must meet once. Five members are entitled to receive mileage and per diem expenses. Mr. Campbell said he estimated it would cost \$250-\$300 for one meeting. He said the Department of Commerce was also a possible funding source for this initial funding. He noted that while the bill mandates that the board members must be compensated, that doesn't mean the member has to accept it.

SEN. COCCHIARELLA'S motion **passed** on a unanimous voice vote.



## **REVIEW OF SJR 35 - A STUDY OF PROFESSIONAL AND LICENSING BOARDS**

Ms. Murdo and **Casey Crites, Information Technology, LSD**, presented information on SJR 35, a study of licensing boards, assigned to the Committee by the Legislative Council. The presentation included information on the following:

- Board Policy ABCs (EXHIBIT #11);
- a table listing boards and programs by type, membership, terms, and staffing (EXHIBIT #12);
- a draft survey for SJR 35 study of professional and licensing boards (EXHIBIT #13);

### **TAPE 3 SIDE B**

- a draft work plan for SJR 35 (EXHIBIT #14);
- an enrolled copy of SJR 35 (EXHIBIT #15); and
- an example of a decision tree for Board Creation (EXHIBIT #16).

Mr. Murdo said if the Committee approves the draft survey, it would be posted on the Internet. Information on the survey has been put in Department of Labor and Industry board newsletters.

Mr. Crites reviewed the online draft survey (EXHIBIT #13) and demonstrated how the survey is accessed on the website.

SEN. COCCHIARELLA said she was very pleased with the work that Ms. Murdo has done in preparing the draft survey.

REP. KEANE expressed his concern on how or if all those who need to be surveyed will be reached. There needs to be an additional way to deliver the survey besides online. Ms. Murdo said REP. KEANE's concern is one of the reasons she wanted it to be published in the DOLI newsletter. She said she realizes that not everyone has access to the Internet and that distribution of the survey would be handled a number of different ways, such as a news release in newspapers, informing the boards directly, contacting unions, or making paper copies available to anyone who needs one. The goal is to get as many people to respond as possible.

### **PUBLIC COMMENT**

**Don Hargrove, Marriage and Family Therapists representative**, said the group he represents is licensed and has its own oversight board in 46 states. He said Montana is not one of those 46 states and the group would like Montana to be a part of its licensing process. Mr. Hargrove said he supports Ms. Murdo's research and proposed survey. He related statistics relating to boards:

- there are nearly 90,000 people licensed to some type of board in Montana;
- this amounts to about 20% of the Montana work force;
- there are 60,000 renewals per year;
- there are 7,000 new applications received yearly; and
- there are about 1,000 complaints received yearly and about 25% of these result in disciplinary action.

Mr. Hargrove said SJR 35 provides an opportunity to systematically address a problem that deals intimately with the daily lives of one out of five Montana workers and impacts every one of us as we use their services. He asked the Committee to consider providing a bill to address the licensing of marriage and family therapists, which right now are not licensed at all in Montana. Mr. Hargrove said he would be happy to assist in whatever manner necessary, should the Committee need his assistance.

**Steve Yeakel, principal in Key Decisions**, said the two organizations he represents have significant exposure and interaction with regulatory boards and are strong supporters of SJR 35. SJR 35 draws attention to big issues and is a lot to deal with in one interim. He said the staff has clearly identified several of the major priorities, which is focusing on the licensees and the public. This study will be very beneficial, if for no other reason that licensees will be better educated about the roles of boards and commissions, as well as the public. Mr. Yeakel commended the Committee on its work and said he is available to the Committee, should his assistance be needed.

**Colleen Murphy, Executive Director, Montana Chapter, National Association of Social Workers**, said she represents approximately 560 social work professionals in Montana. She said that language such as "direct immediate hazard to the public health, safety, or welfare" may mean different things to different people and must be defined as part of the process. She said it has always been a difficult balancing act to provide for public safety and paying for it. Ms. Murphy said if there is no other role for government, it is to provide for the public, health, safety, or welfare. She said she is available for the Committee, should she be needed.

SEN. COCCHIARELLA asked **Dore Schwinden, Deputy Commissioner of the Department of Labor and Industry**, asked how much of a burden SJR 35 would be to his staff. Mr. Schwinden said the Department welcomes the guidance and while the study will entail a great deal of work, the Department is looking forward to it.

SEN. COCCHIARELLA said she has seen a directive that had been issued in the executive branch to the agency directors saying that before a public employee could talk to a legislator or the press, the employee has to get permission. She asked Mr. Schwinden if the Committee wishes to speak with a board, whether it be a chair, attorney, or staff, if the board member or staff has to get permission from the Department before the person may speak with the Committee. Mr. Schwinden said his recollection of that memo is that it says that anyone may go before a legislative committee on their personal time, but if they are representing their agency, then they need their supervisor's approval. SEN. COCCHIARELLA said she wanted that clarified so the Committee did not inadvertently get anyone in trouble by asking them for input on this issue. Mr. Schwinden said he believes the intention of the memo was to provide guidance on what a person can do on their own time and what they can do as a professional. SEN. COCCHIARELLA asked if the Committee could assume that it has the Department's blanket permission to speak with any of the Department attorneys or other staff related to boards. Mr. Schwinden thought it important that the Committee get the best information and most accurate answers that it could and that the Committee had Department permission to gather that information however it needed to.

REP. KEANE commented that even though there may have been the best of intentions behind the memo, this type of policy does not serve the people of the state well.

SEN. COCCHIARELLA **moved** to adopt the SJR 35 study plan as presented. The **motion passed** on a unanimous voice vote.

#### **TAPE 4 - SIDE 1**

The Committee discusses how best to distribute the survey. Ms. Murdo said she was open to suggestions, including from the Department of Labor and Industry.

REP. GALLIK said other agencies use public service announcements (PSAs) effectively to get information to the public. Given the fact that this study is dealing with people's jobs, the fabric of Montana's economy, the Committee must make a good effort to get the information out to the public.

SEN. COCCHIARELLA asked Lisa Addington if each board has a mailing list of its members. **Lisa Addington, Bureau Chief, Healthcare Licensing, Business Standards Division, DOLI,** responded that the Department has the names and addresses for all of the 90,000 licensed individuals and the Department could do the mailing for the Committee. She said that she didn't know what the cost would be, but this is important enough to the Department that it would be willing to do it for the Committee. SEN. COCCHIARELLA asked if the study survey could be included with a normal board mailing or if it would have to be done at additional expense. Ms. Addington said it would have to be a special mailing because the Department prefers not to include any extra information with license renewals.

REP. KEANE said he thought the survey should be directed to more than just boards. There needs to be a way to allow someone who has a complaint about a board to also complete the survey. Ms. Addington said that for example, a Board of Nursing survey was done by the Department and on that survey, anyone who had filed a complaint with the Department was also sent a survey, in order to get comments. Applicant names and addresses are available also and could be included.

Ms. Murdo said she would like to get the survey out to the public as soon as possible after the Committee approves it and would work with people who write PSAs and work to get it on all possible sources of publicity.

REP. GALLIK **moved** to accept the DOLI offer to do the mailing and ask them to do so. He said his motion also included allowing staff to formulate PSAs for all media, without limiting it just to radio. The motion **passed** on a unanimous voice vote.

#### **SJR 38 - A STUDY OF IDENTITY THEFT ISSUES**

Ms. Murdo provided background information on the evolution of SJR 38, saying that it resulted from actions taken on HB 732. Because of stakeholder concerns expressed about HB 732, several sections were removed from the bill. The sections that were taken out of the bill, as well as other issues of concern, were put into SJR 38. Ms. Murdo reviewed how the issues related to identity theft impact consumers, businesses, and government in a Powerpoint presentation ([EXHIBIT #17](#)). Ms. Murdo also presented a draft study plan ([EXHIBIT #18](#)) and an enrolled copy of SJR 38 ([EXHIBIT #19](#)).

SEN. HANSEN commented that he is happy to hear that states are working together on this issue. He asked if that information is compiled by the Attorney General's Office, and if not, where it comes from. Ms. Murdo said most of the information comes from the National Conference of State Legislatures (NCSL) and from the American Association of Retired Persons (AARP). She reported that California was one of the first states to implement sweeping legislation on this issue and that Vermont also has a popular version. There have been requests from national retailers asking Montana not to vary from California laws because they have designed business policies around the California law. If Montana implements something different, the law will have problems. HB 732, until it was changed, was based primarily on the California law.

SEN. COCCHIARELLA **moved** to adopt the proposed study plan for SJR 38. She complimented Ms. Murdo on the work plan, saying she strongly supported the approach outline in the plan.

REP. KEANE said the workgroup members would schedule the meetings and he felt it very important that the group have a unanimous consensus on what should be done. He wants strong support for this study, but said it is also important to remain aware of potential federal legislation that could override state law.

**Claudia Clifford, American Association of Retired Persons (AARP)**, discussed a number of handouts:

- major data security breaches in 2005 ([EXHIBIT #20](#));
- *New York Times* article, dated June 21, 2005, on black market stolen credit cards ([EXHIBIT #21](#));
- a *Washington Post* article, dated June 22, 2005, on technology practices that make identity theft easier;
- MSNBC report regarding data leaks ([EXHIBIT #23](#));
- AARP fact sheet on the Internet and identity theft ([EXHIBIT #24](#)); and
- an MSNBC article, dated June 15, 2005, about identity theft occurring in Internet shopping sites and the economic impact on Internet businesses.

Ms. Clifford said that when she reported to the national AARP office that the EAIC planned to conduct the SJR 38 study, it was very pleased. Ms. Clifford said AARP is very interested in identity theft and has placed the issue at the top of its priority list. AARP has volunteered to provide the Committee with both national and state resources, AARP experts on federal legislation, information on what other states are doing, or any other issue the Committee may wish to have information on. She said this issue is huge and is much more than just stealing mail. This is the largest growing international crime and is a huge risk to consumers.

Ms. Clifford said the Federal Trade Commission (FTC) has compiled data showing that:

- 10 million people per year are victims of identity theft;
- it has cost individuals \$5 billion per year;
- businesses have lost \$48 billion per year; and
- a victim typically spends over 600 hours over several years dealing with identity theft problems.

Ms. Clifford said the 2005 legislature passed two bills to address identity theft but there remains more to be done. She said she liked the structure of the study plan because it looked at both prevention and help for victims after the fact.

SEN. COCCHIARELLA's motion **passed** on a unanimous voice vote.

## **MEMBER ISSUES**

Ms. Murdo asked the Committee members to review the handout titled *Possible Topics for EAIC Consideration*, ([EXHIBIT #26](#)). She asked members to identify any issues they would like the Committee to address, in addition to those already discussed.

REP. GALLIK said the issue of energy transmission is critical and that he would like to examine the economic development side of energy transmission. Right now, Montana has no plan and this issue is much too important to leave up to chance. Without a coordinated transmission agenda, Montana will miss important opportunities. REP. GALLIK said he is aware that the Energy and Telecommunications Interim Committee (ETIC) is also dealing with transmission issues, but that he feels strongly that this is also an economic development issue.

REP. GALLIK said the lack of transmission lines to move power to out-of-state markets, the failed bill that would have formed a transmission authority for the State, Sen. Burns' stance on condemning private property for transmission purposes, and the Supreme Court decision on eminent domain, are all indicators of the importance of having a coordinated energy policy for the State.

REP. KEANE suggested coordinating with the ETIC since it is dealing with transmission issues. REP. KEANE said there is a lot of linkage between the work the two committees do and that he would like to see a study done on the impact of energy development in Montana.

REP. MILBURN agreed, saying that he also, would like to study the economic impact of energy.

REP. KEANE said transmission lines will not be built until it is decided who will pay for them. Capital and workforce issues are a major part of economic development, so as the Committee develops its work plan on the existing studies, it should include these other issues. He said the Committee may even schedule an additional meeting, if needed, to study the energy issues.

REP. GALLIK said the Committee needs to send a message to Montanans that the Committee is willing to take these difficult issues on. He thought it important to take these issues out of Helena, particularly transmission and energy issues, in order to educate the citizens on their importance. He suggested an out-of-town meeting, in order to reach more citizens with this information. REP. KEANE agreed that this approach would be effective.

SEN. STEINBEISSER supported the idea of holding a meeting outside of Helena. He said citizens are interested in energy issues and want to be involved. SEN. STEINBEISSER said coal bed methane is a very hot topic in Montana and would like that included also.

## **TAPE 4 - SIDE B**

Ms. Murdo distributed a calendar showing all of the interim committee meetings scheduled to date ([EXHIBIT #27](#)). She suggested coordinating with other committee meetings if there was an issue or member overlap. She said scheduling a joint meeting is an option the Committee may wish to consider. She cautioned that out-of-town meetings are very expensive and that the budget is tight, due to two members of the Committee being assigned to attend State Fund meetings. REP. KEANE asked what the cost of an out-of-town meeting would be. Ms. Murdo said she could figure that cost, but first would have to know where the meeting would be held, in order to figure travel expenses accurately.

SEN. COCCHIARELLA asked to discuss her concerns regarding Workers Compensation court cases/common fund issues ([EXHIBIT #26](#)). She said the impact of these cases could be in the hundreds of millions of dollars because of court decisions. Every business in Montana could be affected and the Committee members and people of Montana need to understand what this issue is about. The Committee members, especially, need to be informed in the event there is a bill dealing with this issue. The time to study this is now because it is complicated and time consuming. Constituents are reading about this and are concerned. She asked the Committee to schedule time to address this issue soon.

REP. KEANE asked if the court decisions have been made yet. SEN. COCCHIARELLA said no decisions have been handed down at this point. She said she has seen several very good presentations on this subject and recommended that the issue be given at least 2 hours for presentations and questions from the Committee members.

Ms. Murdo said at the State Workers Compensation Conference, Workers Compensation Judge Mike McCarter said that there are potentially eight rulings that will seriously affect Workers Compensation. One decision alone is estimated to cost \$300 million dollars - \$116 million to the Old Fund and \$186 million to the New Fund. The decision is expected by September 15, 2005.

SEN. COCCHIARELLA said the Committee could decide to wait for the decisions and then act, but she thought it would be better to have the Committee become educated on the issues in order to be ready to act, if and when the decisions are handed down. It could even be an issue that comes up in the special session.

Ms. Murdo discussed the Work Plan work sheet ([EXHIBIT #28](#)) listing the proposed meeting dates. She reported that the next proposed meeting date is September 9, 2005. She said the Committee could save mileage expenses if it planned two-day meetings. The Law and Justice Interim Committee is interested in the identity theft issue also and could have a joint meeting with EAIC on this topic. Another possibility for a joint meeting is with the Energy and Telecommunications Committee to study the energy issues. REP. KEANE asked if the whole calendar had to be adopted, or if the Committee could act on just the 2005 meeting dates. Ms. Murdo said the Committee could do either.

REP. MILBURN and SEN. STEINBEISSER said they would prefer that the meeting calendar for the entire interim be approved. SEN. COCCHIARELLA said the dates may be changed later, if the Committee so desires. REP. KEANE said he is still interested in scheduling an out-of-town-

meeting and planned to look into it further. REP. GALLIK thought if the Committee feels strongly about going out-of-town, a way could be found to do it.

REP. KEANE asked what happens if a Committee goes over budget. SEN. COCCHIARELLA said when a Committee goes over its budget, it must go to the Legislative Council and request additional funding. She said the Committee, as a cost savings measure, could consider scheduling a meeting in conjunction with the special session.

SEN. HANSEN **moved** to tentatively adopt the proposed meeting schedule. The motion **passed** on a unanimous voice vote.

REP. GALLIK asked if a decision had been made regarding the common fund issues resulting from the pending court decisions. REP. KEANE said it had been decided that the issue would be addressed but nothing was scheduled at this time. REP. GALLIK said he thought the Committee should wait until the court decisions are handed down and then address the situation. Otherwise, the Committee would just be guessing as to what the solutions may be.

SEN. COCCHIARELLA said she strongly disagreed with REP. GALLIK's suggestion. This issue has already been publicized in the newspapers and is not one decision, but potentially eight. She said the presentations she had seen were excellent and very informative. The background work and the understanding of the subject is what is important, not worrying about the amount of money that may be involved. If people are educated, they have a better way to deal with the information.

## **REVIEW OF SB 61 - APPOINTMENT OF STATE FUND LIAISONS**

**Matthew Cohn, State Fund Representative**, reviewed Senate Bill 61, which provided for assigning two legislators to act as liaisons to the Montana State Fund Board of Directors meetings. This would help the Committee gain a better understanding of the operations of and issues facing the State Fund. Mr. Cohn distributed a fact sheet on the Montana State Fund Board of Directors requirements, duties, and powers ([EXHIBIT #29](#)) and a list of the current Board of Directors and the meeting dates for 2005 ([EXHIBIT #30](#)).

REP. KEANE appointed REP. MILBURN and himself to be the legislative liaisons to the Board of Directors meetings.

Ms. Murdo said for the several interims preceding this one, the Economic Affairs Committee has sent a letter to the State Administration and Veterans' Affairs Committee (SAVA) saying that it would like to have oversight of State Fund. Because the State Fund is administratively attached to the Department of Administration, it falls under the SAVA Committee, but the EAIC deals with all workers compensation issues, so it makes sense for EAIC to have oversight. The SAVA committee has agreed over the last three interims that EAIC would take that responsibility. Ms. Murdo asked if the Committee wished to have her send the same letter requesting EAIC oversight of the State Fund to the SAVA for the current interim. REP. KEANE instructed Ms. Murdo to do so.

REP. KEANE said that he wished to investigate another matter involving railroads. Ms. Murdo said the Rail Services Competition Council requires that the Economic Affairs Committee

appoint members. However, the bill does not become effective until July 1, 2005, so she did not put that item on the agenda for this meeting. REP. KEANE said he wanted to have his appointees selected and ready to serve when the effective date arrives. He appointed SEN. HANSEN and REP. MCGILLVRAY to serve on the Council, effective July 1, 2005. Ms. Murdo said she would send an official letter of appointment to the appointees after July 1.

Ms. Murdo referred the members to the Economic Affairs Draft Work Plan for the 2005 -2006 interim (EXHIBIT #31). Ms. Murdo said the Committee had already approved the approach it plans to take regarding the assigned study resolutions and that it must now decide how it wished to handle administrative rule review. Mr. Campbell has recommended that the Committee be minimally involved, requesting information only when a stakeholder or concern about a rule is raised either to a Committee member or to staff. Mr. Campbell would report only on those rules that either he has identified as being problematic or if someone from outside the Committee has identified a problem. He would like direction from the Committee on how it wishes to proceed on rule review. He pointed out that any member who signed up to receive the mailings on proposed administrative rule changes will receive all proposed rule changes, but if the Committee wished to have more of a report during each meeting, he would do so.

REP. GALLIK asked if his understanding of Ms. Murdo's explanation was correct that the only rules reviewed and or discussed by the Committee would be those identified by Mr. Campbell or from a stakeholder. Ms. Murdo said the Committee could also raise questions about proposed rule changes, but that if a member does not sign up for the rule changes mailings, or if a member is not aware of a problematic rule, then it is up to Mr. Campbell to notify the Committee if he sees a proposed rule that should be reviewed by the members. If a Committee member is aware of a problem, then it can be presented by the Committee member.

SEN. COCCHIARELLA said that Lee Heiman, Staff Attorney for the Revenue and Transportation Interim Committee (RTIC) regularly presented updates on proposed rule changes at each RTIC meeting. She said that there was a brief synopsis for each proposed rule change and this was provided in advance to the members. The report was then discussed at each meeting and Mr. Heiman was given direction by the Committee members of the proposed rule changes they identified as controversial. She suggested that the EAIC use that same approach.

REP. KEANE said in the past, the Committee has received information from Mr. Campbell only if there was a rule that Mr. Campbell brought to the members. SEN. COCCHIARELLA said she would prefer to have more information than that and suggested a one or two page report from Mr. Campbell be provided in advance to each member and discussed at each EAIC meeting, whether or not Mr. Campbell considered the proposed rule change controversial or not.

Mr. Campbell said he could do that, even though it was not practical due to the sheer volume of proposed rule changes. The EAIC gets a great many rule changes and it may be cumbersome. An alternative would be to send out the full text of the proposed rules to members in advance.

REP. KEANE said members could sign up to receive just the proposed administrative rules changes for agencies they are interested in and don't have to receive all of them. He also said he thought it worked fine doing it the way it had been done by the Committee in the past.



SEN. COCCHIARELLA said Mr. Heiman made it very simple. She pointed out that Mr. Campbell has to read all of the rules anyway, so it should be a simple next step to write a brief summary as he goes. Mr. Campbell asked if the report was to be mailed out only or mailed out and discussed at meetings. SEN. COCCHIARELLA said the report was mailed out in advance and then discussed at the next meeting.

REP. GALLIK suggested Mr. Campbell mail out a report, with followup discussion at the next meeting, if any members had questions or concerns. Ms. Murdo referred to Page 8 of EXHIBIT #31 (the draft work plan) and said she would revise the language about rule review to indicate that the Committee selected "moderate involvement" as its choice. Mr. Campbell said from this point on, rules would be summarized and sent out to members.

#### **TAPE 5 - SIDE A**

Ms. Murdo asked the Committee, regarding agency monitoring, to decide if it wanted presentations at meetings or information included in a mailing. REP. KEANE recommended having a short presentation at each meeting. In past interims, an agency representative gave a short report, the Committee asked questions, and if issues were raised, they were dealt with.

Ms. Murdo said, regarding draft legislation review, she currently has a two-day meeting scheduled at the end of the interim to review any proposed legislation (moderate involvement). She said the Committee must choose what level of involvement it wishes to have regarding legislative review. The members supported Ms. Murdo's suggestion of a two-day meeting to review legislation.

Ms. Murdo said the member issues the Committee members raised at the day's meeting were workers compensation, energy issues, such as coordination of energy policy, wind generation, coal bed methane. REP. KEANE asked to have venture capitol investments included on the member issues list. REP. MCGILLVRAY asked to have motor vehicle insurance and uninsured motorist options included.

Ms. Murdo asked if the Committee wanted her to prepare a staff paper on these issues. REP. KEANE said he would like to have staff research what other states are doing on the uninsured motorist issue. REP. GALLIK said he would like to have research done on how many bills have been introduced on that subject. REP. MCGILLVRAY said he added this issue to the list because it is a common complaint and concern he has heard repeatedly from his constituents. He thought the Legislature needs to address this in a thoughtful manner. SEN. HANSEN said three bills regarding uninsured motorists had been introduced in the Senate in the 2005 session, one of the bills being his own. He agreed that there are many states dealing with this issue, so there should be ample information.

SEN. COCCHIARELLA asked to have a report on the status of workforce training because of the very controversial bill in the legislative session about who is in charge of the Workforce Investment Act training. REP. KEANE said, technically, the federal funding is appropriated to the Department of Labor but that the Governor's strong interests in economic development appears to have resulted in a combination of efforts.

Ms. Murdo said, for monitoring important activities (Page 9, Exhibit #31), appeared to be melding with member issues, so she would combine the two and designate "most involvement" for both.

REP. GALLIK **moved** to adopt the draft work plan, as discussed. The motion **passed** on a unanimous voice vote.

REP. KEANE said one other issue that the Committee needed to consider is the issue of proxy voting. He said it is his opinion that the members should be able to vote on issues, whether they are present at the meeting or not. He said he would research whether a written proxy is required.

### **ADJOURNMENT**

REP. GALLIK moved to adjourn. The motion passed on a unanimous voice vote. With no further business before it, the Committee adjourned at 4:15 p.m.

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