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Economic Affairs Interim Committee

65th Montana Legislature

SENATE MEMBERS

GORDON VANCE--Chair
EDWARD BUTTREY
TOM FACEY
LEA WHITFORD

HOUSE MEMBERS

RYAN LYNCH
MARK NOLAND
VINCE RICCI
SHARON STEWART-PEREGOY

COMMITTEE STAFF

PATRICIA MURDO, Lead Staff
JAMESON WALKER, Staff Attorney
FONG HOM, Secretary

MINUTES LOG

April 26, 2018
Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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COMMITTEE MEMBERS PRESENT

SEN. GORDON VANCE, Chair
SEN. EDWARD BUTTREY
SEN. TOM FACEY
SEN. LEA WHITFORD

REP. RYAN LYNCH
REP. MARK NOLAND
REP. VINCE RICCI
REP. SHARON STEWART-PEREGOY

COMMITTEE MEMBERS EXCUSED

STAFF PRESENT

PATRICIA MURDO, Lead Staff
JAMESON WALKER, Staff Attorney
FONG HOM, Secretary

VISITORS' LIST(Attachment 1)

AGENDA(Attachment 2)

COMMITTEE ACTIONS

The Economic Affairs Interim Committee took the following actions at its April 26, 2018, meeting:

- Elected Rep. Ryan Lynch as vice presiding officer to replace Nate McConnell, who was reassigned to other interim committees after he was named to a senator post from Missoula;
- Voted on proposed recommendations for the Senate Joint Resolution 20 study of unemployment in high-poverty counties and to move the draft final report forward on that study;
- Voted to have a committee bill to repeal the Rail Service Competition Council;
- Suggested revisions to a proposed committee bill that adjusts Senate Bill 5 from the 2017 special session to fine-tune license auction sales and division of quota areas for all-beverage, restaurant beer and wine, and retail beer licenses;
- Decided against having particular presentations for required reports or agencies attached to the departments monitored by the Economic Affairs Interim Committee, unless specifically requested. One possible presentation, pending a U.S. Supreme Court decision on fantasy sports, would be to request an update from the Board of Horseracing, which oversees pari-mutuel betting on fantasy sports.
- Decided to meet in July rather than late June.

CALL TO ORDER AND ROLL CALL

00:00:04 Sen. Gordon Vance called the meeting to order at 1:02 p.m. The secretary called roll. (Attachment 3)

ADMINISTRATIVE UPDATES - Sen. Gordon Vance and Pat Murdo, committee staff **Introduce new Economic Affairs Interim Committee member**

00:01:12 Sen. Gordon Vance Introduced Rep. Ryan Lynch as the new committee member.

Elect new vice presiding officer

Motion

00:01:20 Sen. Tom Facey moved that Rep. Ryan Lynch replace Nate McConnell as vice presiding officer of the Economic Affairs Interim Committee.

Vote

00:01:33 The motion passed unanimously by voice vote.

Review of agenda items

00:02:26 Pat Murdo, Committee Staff

Public Comment on any topic not on the agenda - None.

AGENCY MONITORING - LIQUOR CONTROL DIVISION - Becky Schlauch, Administrator, Alcohol and Beverage Control Division

00:06:25 Ms. Schlauch ([Exhibit 1](#))

Questions from the Committee

- 00:18:04 Sen. Facey asked Ms. Schlauch about the Division's overhead of \$3 million and about the phrase "concessions at the fairgrounds".
- 00:19:54 Rep. Mark Noland asked about the quota area terms referenced in 16-4-105, MCA.
- 00:21:17 Sen. Ed Buttrey asked about overlapping boundaries between Helena and East Helena.
- 00:22:21 Sen. Buttrey commented on the intent of Senate Bill 5 and how certain quota areas were drawn. Sen. Buttrey suggested revising the language about quota areas regarding equidistant borders.
- 00:23:39 Sen. Facey said it might be mathematically impossible to follow the statute as written through no fault of the agency.

Public Comment

- 00:24:23 John Iverson, Montana Tavern Association, commented on undisclosed ownership interests in a business. He urged the committee to ask the Department of Revenue to look into the issue. If the department is unable to resolve the issue, he said the Montana Tavern Association will be looking for a bill in 2019 to address this and related loan arrangements. Mr. Iverson also commented on the short-form application.
- 00:33:31 Floyd Hoff, Jr., owner of Red Fox Supper Club ([Exhibit 2](#)), requested that his all-beverage liquor and gaming license be grandfathered in to the Helena, and not the East Helena, quota area.

Committee Questions

- 00:44:01 Sen. Whitford asked Mr. Hoff if he has talked with the Liquor Division about being grandfathered in.
- 00:44:35 Sen. Whitford asked Ms. Schlauch about the grandfather clause and the straight line methodology for overlapping quota areas.
- 00:45:39 Sen. Buttrey asked Ms. Schlauch about sections in Senate Bill 5 that for a 12-year period allow a transfer of existing licenses between two quota areas that were part of the combined area prior to Nov. 24, 2017.
- 00:47:02 Sen. Facey noted that the license and not the actual physical location can be transferred.
- 00:47:19 Sen. Buttrey agreed that the license and location are independent of each other.
- 00:48:07 Sen. Vance asked whether the definition of "transfer" was in code or in the department's administrative rules.
- 00:48:21 Rep. Lynch asked Ms. Schlauch about a transfer scenario regarding licenses and locations.
- 00:49:24 Mr. Iverson said that the concerns relate to the 12-year grandfather period and whether 12 years is the proper amount of time. Mr. Iverson added that licenses are tied to quota areas.
- 00:51:27 Sen. Vance asked Mr. Iverson about change in ownership or location.
- 00:52:24 Sen. Vance discussed an email from Julie Collins regarding the Department of

Revenue auction and a \$25,000 fee charged as provided in House Bill 428 in 2017. **(Exhibit 3)**.

- 00:53:16 Sen. Buttrey discussed two reasons for the \$25,000 fee.
00:53:41 Sen. Facey said that if a person pays the fee and doesn't win the auction, that person gets the fee back.
00:54:27 Mr. Iverson discussed and described the three license types that can be auctioned and the fees for each license.
00:58:40 Sen. Buttrey said that bidders on a beer and wine license get the license if they win the bid, whereas with the all-beverage license a successful bidder wins the right to purchase the license.

COMMITTEE BILL DRAFT REVIEW ON REVISIONS TO LIQUOR AUCTION BILL, SENATE BILL 5 - Jameson Walker, Committee Staff Attorney

00:59:25 Mr. Walker **(Exhibit 4)**

Committee Questions of Mr. Walker

- 01:12:18 Sen. Facey asked Sen. Buttrey about the sunset provision in SB 5.
01:12:34 Sen. Buttrey further said that he does not like the wording referencing licensure of gaming or gambling activity. He suggested saying that a license of any type issued under this section is not eligible for gambling.
01:13:47 Mr. Walker
01:14:20 Sen. Buttrey asked staff to work with the department on the boundary issue in a way that allows a quota area that cannot be divided equally or cannot be drawn with a straight line to go with an alternate.
01:15:12 Rep. Lynch asked Mr. Walker about quota areas that overlap within a 5-mile boundary and measurement methods.
01:17:59 Sen. Vance asked Mr. Walker to work with the department to come up with language on overlapping quota areas for review at the next meeting.

COMMITTEE WORK PLAN UPDATE RELATED TO ADVISORY COUNCILS - Pat Murdo

- 01:19:00 Ms. Murdo presented information on advisory councils attached to the following agencies:
01:20:14 Department of Labor & Industry **(Exhibit 5)**
01:21:59 Department of Agriculture **(Exhibit 6)**
01:26:24 Department of Commerce **(Exhibit 7)**

Committee Questions

- 01:34:58 Rep. Noland commented on an incident regarding massages and asked to whom does someone report the incident.
01:37:08 Ms. Murdo said that a complaint can be filed with the Board of Massage Therapy for unlicensed practice.
01:38:26 Sen. Buttrey asked whether a business that has the word "massage" in the business name is automatically under the purview of the Board of Massage Therapists.
01:40:11 Sen. Whitford asked whether the word "licensed" is needed.
01:41:31 Sen. Facey suggested that this issue be dealt with as a law enforcement issue.
01:41:44 Sen. Vance said that this situation is not in the purview of the committee.
01:42:01 Sen. Vance asked Sen. Facey about eliminating the advisory councils reporting

- to the Economic Affairs Interim Committee.
- 01:42:40 Sen. Facey said that with the information from staff, he did not feel that the committee needs any more reports for the next meeting.
- 01:44:37 Sen. Whitford said that, as a new legislator, it was beneficial to hear from the boards to get a short preview of what the boards do. She noted that those who have served on committees need less information than new members unfamiliar with boards and their roles.
- 01:46:37 Rep. Lynch asked if the Heritage Commission would consider giving a presentation biannually.
- 01:47:14 Sen. Whitford asked about the fantasy sports presentations.
- 01:47:35 Sen. Buttrey said there were some bills that dealt with fantasy sports gaming last session and that the U.S. Supreme Court is dealing with the issue of internet gaming which includes fantasy sports.
- 01:48:10 Sen. Whitford asked about the number of meetings left and whether there will be time to address issues before the last meeting in September.
- 01:48:58 Sen. Buttrey suggested putting internet gaming on the agenda with the goal to update the committee as to what the changes are to the federal law.
- 01:49:17 Sen. Whitford asked about Fantasy Sports betting being under the Board of Horseracing.
- 01:49:50 Sen. Buttrey suggested that reports be reviewed each interim because of new membership, and the committee can decide which advisory councils should come and present to the committee.
- 01:50:40 Sen. Vance said that if any members of this committee want any councils to present, to tell Ms. Murdo.
- 01:51:01 Sen. Whitford said that she may request revisiting the issue based on correspondence from a constituent.

STUDIES: SJR 20 UNEMPLOYMENT STUDY FINAL REPORT - Pat Murdo

- 01:51:45 Ms. Murdo ([Exhibit 8](#))

Committee Questions

- 02:13:25 Sen. Whitford thanked Ms. Murdo for the information.
- 02:13:53 Sen. Facey asked which findings under Proposed Findings contradict each other.
- 02:18:16 Sen. Facey referenced a committee that he and Sen. Buttrey sat on, Workforce Development, that had more demand than available money.
- 02:19:19 Sen. Buttrey clarified which grant programs provide what resources. He said there could be some value in including high unemployment as a factor for getting additional money (Finding "B"). He questioned a comment about budgeting in a way that interferes less with competition in business (Finding "C").
- 02:21:36 Rep. Lynch said he would entertain looking at the \$5,000 for a job under the grant program, and then \$2,500 high unemployment, and then another \$2,500 for high poverty.
- 02:22:15 Sen. Whitford commented on the benefit of the Big Sky Economic Development Trust (ICED) Fund.
- 02:23:37 Rep. Sharon Stewart-Peregoy added a caveat about the Coal Trust Fund and the downturn of coal mining which impacts funding and jobs.

Motion

02:25:08 Sen. Facey moved to accept the SJR 20 Unemployment Study Final Report and adopt Proposed Findings A, B, D, E, F, and G, and eliminating Finding C.

Discussion on the Motion

02:26:46 Sen. Buttrey said he wanted to address Item D, the Indian Country Economic Development Program.

02:27:42 Sen. Facey asked about the House Bill 2 appropriation for the Indian Country Economic Development Program.

02:29:20 Rep. Lynch suggested that a companion policy bill would be needed to make this a statutory appropriation but that this discussion was about policy not an appropriation.

02:30:05 Sen. Buttrey said that a way to justify that in his mind is that the focus of SJR 20 is on high-poverty and high-unemployment areas, and the ICED program would definitely be dealing with both of those, and other programs may not be delegated to those areas.

02:30:38 Ms. Murdo said that Sen. Buttrey points out the dangers of language. The way she had written the report was intended to have the policy issue that Rep. Lynch talked about, not a statutorily funded approach.

02:31:15 Sen. Buttrey said if Sen. Facey is open to an amended motion to reword Item D so that it isn't implying that this would be any sort of statutory appropriation, that the intent is to look for an ongoing program.

02:31:59 Sen. Whitford said that the Indian caucus comes every session prepared to talk about Indian communities and their challenges. Part of the study was to ask what's going on throughout the state, what's happening, how things can be done differently. This was one of the findings. She hopes that the Indian caucus will take up statutory requirements for something permanent.

02:34:18 Sen. Facey asked if the Indian Country Economic Development program is sunsetted in statute?

02:34:41 Ms. Murdo said that the program is not mentioned at all.

02:34:50 Sen. Facey said that under Item D, this committee is saying to put the program in statute to have some predictability.

02:35:38 Rep. Stewart-Peregoy said that the issue continues to be that the Indian caucus always has to ask that the Indian Country Economic Development program be a part of a package that the governor brings forward. The program is never guaranteed, nor are the constituents guaranteed that this will be something that is ongoing. If the program is in statute, at least there is some planning around it.

Amended Motion

02:38:05 Sen. Facey amended his motion to accept Sen. Buttrey's changes to Item D.

Vote

02:38:44 The motion passed 7-1, on a voice vote with Rep. Noland voting no.

SJR 32 STUDY OF EMERGENCY/COMMUNITY SERVICE VETERANS FINAL REPORT - Pat Murdo

02:39:17 Ms. Murdo ([Exhibit 9](#))

Committee Questions

- 02:45:53 Sen. Facey asked if the determination of the emergency responders be that the entire group would say that they want to be involved in the nonemergency community care, or would the individual members of the volunteer organization say that they don't want to be involved and others say they want to be involved. Would individual members be able to select or would it be an all or nothing for the volunteer EMTs.
- 02:46:39 Ms. Murdo said that it would be up to this committee to make any recommendations.
- 02:49:04 Sen. Buttrey discussed the issue of dispatching the emergency volunteers. He said that it would be inappropriate to approve the report until Ms. Murdo provides additional background information, therefore, no motion is to be made.

RULE REVIEW - Jameson Walker, committee staff attorney

- 02:50:00 Mr. Walker discussed the Administrative Rule Report, April 11, 2018 ([Exhibit 10](#)), and the Updated Administrative Rule Report, April 24, 2018 ([Exhibit 11](#)).

PRESENTATION ON QUOTA LICENSES

- 02:53:42 Mr. Walker discussed alcoholic beverage licenses in quota areas. He discussed handouts from the department showing overlapping boundaries of several quota areas. ([Exhibit 12](#))

Committee Questions

- 02:55:17 Sen. Buttrey said that the statutes do not address areas where there were three quota areas. He asked Mr. Walker if the concerns regarding the objection to rules have been addressed satisfactorily.
- 02:59:49 Sen. Vance said that as he recalled the one issue that came up was the definition of a year as a calendar year, as opposed to a fiscal year.
- 03:00:19 Sen. Facey asked about the number 5 in the 5-mile issue.
- 03:00:56 John Iverson, Montana Tavern Association, explained about the decision to use 5 miles and the significant impacts to a lot of small business owners if that number is changed. He commented on the licenses in quota areas.
- 03:05:27 Rep. Lynch asked Mr. Iverson if he would work with the department to come up with some language that is agreeable to both the industry and the department and bring that to the committee.
- 03:06:15 Sen. Whitford asked Mr. Iverson to provide more comments on the draft revision to SB 5.
- 03:09:17 Sen. Buttrey asked what alternatives are being discussed for the 12-year period for transfers.
- 03:09:32 Mr. Iverson said that he heard that the number is 20 years.
- 03:09:48 Rep. Lynch asked how many licenses are eligible within that 12-year period.
- 03:10:03 Mr. Iverson said that under the current law, it is all existing licenses that are all beverage and beer and wine.
- 03:12:43 Sen. Whitford asked for a summary of the revenue generated from the all-beverage and beer and wine sales from Ms. Schlauch.

AGENCY MONITORING: STATE AUDITOR'S OFFICE

Update on Air Ambulance Complaints, Arbitration - Bob Biskupiak, Deputy State Auditor

03:14:35 Mr. Biskupiak ([Exhibit 13](#))

Committee Questions

03:24:18 Rep. Noland said, regarding a person using an air ambulance to fly to Seattle instead of Spokane, who is making those decisions? Is the patient involved or the doctor saying that is where you are going.

03:24:53 Mr. Biskupiak said that it could be an assortment of different scenarios.

03:26:00 Sen. Vance explained that a letter that Mr. Biskupiak referred to came from northeastern Montana and had been referred to the Children, Families, Health, and Human Services Interim Committee because that committee deals with Medicaid issues.

LIAISON REPORTS

Rail Service Competition Council

03:26:47 Sen. Facey reported on the activities of the Rail Service Competition Council. He said that, while interesting, other committees are in place to handle rail issues, which are regulated by federal authorities.

03:30:42 Rep. Ricci agreed that meetings were interesting but legislators did not need to be there.

Motion

03:31:00 Sen. Facey moved for a committee bill to abolish the Rail Service Competition Council.

Vote

03:31:19 The motion passed unanimously on a voice vote.

HJR 20 Study of Health Care Pricing Transparency - Sen. Buttrey

03:31:40 Sen. Buttrey gave a report on the HJR 20 Study of Health Care Pricing Transparency.

House Bill 661 Study of State Labs - Sen. Vance

03:35:29 Sen. Vance reported on the activities of the HB 661 Study of State Labs.

Public Comment - None.

State Fund Report - Rep. Ricci

03:40:30 Rep. Ricci reported on the State Fund's March meeting.

REVIEW OF REMAINING JUNE AND SEPTEMBER MEETING ACTIVITIES

03:41:27 Ms. Murdo discussed the agenda items for the next meeting and for the September meeting.

ADJOURNMENT

03:44:44 Sen. Vance adjourned the meeting at 4:47 p.m.

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