



# Economic Affairs Interim Committee

## 58th Montana Legislature

### SENATE MEMBERS

GLENN ROUSH--Vice Chair  
SHERM ANDERSON  
JEFF MANGAN  
MIKE TAYLOR

### HOUSE MEMBERS

JOE MCKENNEY--Chair  
NANCY RICE FRITZ  
JIM KEANE  
SCOTT MENDENHALL

### COMMITTEE STAFF

PATRICIA MURDO, Research Analyst  
BART CAMPBELL, Staff Attorney  
EDDYE MCCLURE, Staff Attorney  
DAWN FIELD, Secretary

# MINUTES

June 30, 2004

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

REP. JOE MCKENNEY, Chair  
SEN. GLENN ROUSH, Vice Chair

SEN. SHERM ANDERSON  
SEN. JEFF MANGAN

REP. JIM KEANE  
REP. SCOTT MENDENHALL

### COMMITTEE MEMBERS EXCUSED

SEN. MIKE TAYLOR  
REP. NANCY RICE FRITZ

### STAFF PRESENT

PATRICIA MURDO, Research Analyst  
BART CAMPBELL, Staff Attorney  
EDDYE MCCLURE, Staff Attorney  
DAWN FIELD, Secretary

### AGENDA & VISITORS' LIST

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

## **COMMITTEE ACTION**

The Committee:

- approved the May 5, 2004, meeting minutes as written;
- approved drafting of two legislative proposals put forth by the Department of Agriculture, and to draft a third proposal, if the Department determines it is needed;
- approved drafting of the Department of Commerce legislative proposals;
- approved drafting of the State Auditor's Office legislative requests;
- approved support for a joint resolution for encouraging angel investors;
- approved drafting a fund of funds bill, to be reviewed by the Committee after input from an ad hoc group, the Governor's Office of Economic Development, the State Auditor's Office, and other stakeholders as potential Committee bills;
- approved drafting of MEDA legislative proposals:
  - ▼ revising an economic development incentive by decreasing a tax rate on new industrial property in 15-6-135 (3)(a), MCA, from 3% to the 1%;
  - ▼ redefining "new industry"-15-24-1402, MCA;
  - ▼ strengthening worker training programs for new and incumbent workers; and
  - ▼ exempting economic development levies from a local government spending cap.

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

REP. MCKENNEY called the meeting to order at 9:32 a.m. The secretary noted the roll (ATTACHMENT #3); SEN. TAYLOR and REP. RICE FRITZ were excused. The Committee approved the minutes from the May 5, 2004, meeting as written on a unanimous voice vote.

## **PREVIEW OF ECONOMIC DEVELOPMENT ANALYSES**

**Alan Peura, Legislative Fiscal Analyst, Legislative Fiscal Division (LFD)**, said the purpose of his report, *EXPANDING THE MONTANA ECONOMY* (EXHIBIT #1), was to provide the Economic Affairs Interim Committee with a status report on the preliminary findings of an economic development project that LFD staff is conducting on behalf of the Legislative Finance Committee (LFC). The final report will be presented to the LFC in October 2004 and will be available to the Economic Affairs Committee members as well. Mr. Peura said the preliminary findings may be useful to the Committee in completing its work plan for the current interim.

REP. MCKENNEY asked Mr. Peura to discuss how the proposals will be funded. Mr. Peura referred to Appendix 2 of EXHIBIT #1 and said possible sources of funds may be federal, such as the Small Business Administration (SBA), state revenue from Coal Tax funds, and some general fund revenue. Mr. Peura said data on the funding sources for economic development programs will be finalized by October. REP. MCKENNEY asked how much of the Coal Tax Trust Fund revenue is being used for economic development. Mr. Peura said he could not say exactly but would have that information in the future. The Committee received a handout on Coal Tax trust disbursements during a break (EXHIBITS #2a and 2b).

SEN. ROUSH asked Mr. Peura to confirm that the location of the Montana Cooperative Development Center (MCDC) has changed, moving from Havre to Great Falls. Mr. Peura said there has been some significant changes to the program but was not sure of the actual physical location of the program.

REP. MENDENHALL asked if Mr. Peura had any preliminary indications from Goals 3 (analyzing economic development programs and elements) and 4 (to establish a clearer definition of terms for economic development and a universal set of performance indicators), as listed on page 2 of EXHIBIT #1. Mr. Peura said he had preliminary information regarding 4(a), which establishes a clearer definition of terms for "economic development" but not in a form that would be useful at this time.

REP. MENDENHALL asked if the Montana Manufacturing Extension Center (MMEC) is included in the project. Mr. Peura said it is and appears in Appendix 2 under Economic Development Programs. REP. MENDENHALL said in his experience, the MMEC has done a very good job of measuring quantifiable economic development performance and could be of great assistance in developing universal performance indicators.

REP. MCKENNEY asked how the funding is broken down between private, local, state, and federal funding sources. Mr. Peura said that information would be available in October.

### **ECONOMIC DEVELOPMENT PROPOSALS, COMMENTS FROM INTERESTED PARTIES**

**Jim Kambish, Vice President, MSE Technologies Applications, Inc., & Executive Director of MERDI**, provided an overview of the Mariah Project, which is a prototype wind tunnel being developed in Butte. Mr. Kambish said support has come from the Montana Aerospace Development Association (MADA), a 501(c)3 corporation created to encourage and promote economic development in aerospace technology in Montana's private sector. Mr. Kambish distributed information on the MADA, which listed the Board of Directors, its current activities and objectives, and specific information on the Mariah Hypersonic Wind Tunnel Project (EXHIBIT #3).

Mr. Kambish also provided copies of MADA's 2004 Strategic Plan (EXHIBIT #4) and said MADA provides public research, identifies technology suitable for the State, and is pursuing the National Aeronautics and Space Administration (NASA) licensing and commercialization opportunities in Montana. Mr. Kambish invited the Committee to visit the Mariah Project, which he said is on the cutting edge of technology.

**Gloyd Simmons, Air Force Programs Manager, MSE**, discussed the Mariah Hypersonic Wind Tunnel Development Program and provided a detailed handout (EXHIBIT #5):

- Air Force and Army Program Plans;
- opportunities for the Mariah Wind Tunnel;
- the artist's concept of the facility; and
- cost-sharing information.

Mr. Simmons concluded his remarks by saying the Mariah Project is a wonderful economic development opportunity for Montana, that it will be a premier test facility for the world, and that many companies will establish offices in Montana just to be near this facility.

REP. MCKENNEY asked for specific information about the number of jobs that will be created by the Mariah Project, especially as it expands and reaches its full potential. Mr. Simmons said currently the project employs 14 FTEs (full-time equivalent positions), who work directly on the project and about the same number of support staff. In about three years, construction will

begin on a \$50 million facility, which will considerably increase the number of construction jobs. After that facility is completed, the personnel necessary to operate the facility will include operators, engineers, computer analysts, and maintenance workers. Between 20 and 30 employees are expected to be directly involved, with a similar number of support staff. Companies using the facility to test products will bring in their own employees and it is hoped that these companies will establish offices in the Butte area.

REP. MCKENNEY asked what plans are in place to keep this project in Montana or what needs to be done to prevent it from moving out of state. Mr. Simmons said Montana must develop the infrastructure and the job skills that will support this facility. MSE has hired graduates from the Montana universities to develop and build the skills base. When the time comes to decide where the final project will be based, if Montana has the skills to support it, if the technology development has been done, and if the infrastructure is in place to support it, then Montana will have a competitive edge over other interested parties.

Mr. Kambish said the State has been very supportive of MSE's efforts to date and said the support from the university, private, and government sectors has been critical. He said he is confident that the prototype facility will be in Butte but said the larger scale tunnel will have to be built at a secure installation. Malmstrom Air Force Base in Great Falls is a perfect location and Montana's long-term goal must be to band together to work for and support that. The universities have been very involved because the sole critical component is being able to attract engineers and scientists back to Montana. There are efforts underway to establish an aeronautics and aeronautical engineering Masters Degree programs within the Montana university system, which would be very important to the program.

REP. MCKENNEY asked if the project will eventually be solely owned by the federal government or if it will remain a private-public partnership. Mr. Simmons said the hardware and materials that go into the actual wind tunnel will be government property. MSE will supply and own the building and property.

REP. KEANE asked if the Board of Investments money invested several years ago has been essential to the success of the project. Mr. Kambish said the Board of Investments money (\$500,000) was absolutely critical to the project.

**Montana Economic Developers Association (MEDA) -- Evan Barrett**, presented a detailed explanation of MEDA's legislative agenda for economic development for the 2005 Legislative Session (EXHIBIT #6):

- the creation of an economic development trust fund;
- improving "new industry" property tax incentives;
- restructuring the Governor's Office of Economic Development;
- developing a strong Montana business marketing program;
- providing incumbent worker training;
- improving new worker training program; and
- exemption of economic development levies from local government spending caps.

Mr. Barrett also presented legislative proposals that MEDA would not ask to have introduced into the legislature but would support if introduced by others:

- venture or equity capital;

- developing an energy policy for the state;
- eliminating the "trigger" on the business equipment tax;
- creation of a statewide "Main Street" program; and
- selected changes in tax increment processes.

REP. MENDENHALL asked for additional information regarding the incumbent worker training program, specifically what types of businesses would benefit from that program. Mr. Barrett said the current parameters require businesses to be basic sector businesses so the multiplier effect is maintained and the limited amount of job training money is not being spent on service sector jobs. If a business can demonstrate that more than 50% of its revenues come from out of state, then it would be eligible to request training.

Regarding how to fund the economic development trust fund, REP. MENDENHALL asked for more information on possible funding sources. REP. MENDENHALL questioned whether the coal trust fund was a good source. Mr. Barrett said the challenge in using the coal trust fund is that the general fund would not receive any coal tax trust interest money.

REP. MENDENHALL asked why the proposed marketing program wasn't funded in the same manner. Mr. Barrett said the rationale was that, as the economic development trust fund grows, portions of it could be used to finance the Montana Business Development Council marketing model. He said the goal is to have adequate funds available for what would be long term project.

In relation to MEDA's proposal to streamline the review process for the new worker training program, REP. MENDENHALL asked what the Board of Investments (BOI) perspective is regarding MEDA's proposal to have one rather than two reviews. BOI does the second review after an advisory council review. Mr. Barrett said the BOI inherently looks at projects with a different eye than a normal business review would indicate and that he intends to discuss it with the Board.

REP. MCKENNEY asked if the Governor's Office has given input on the proposed restructuring of the Office of Economic Development. Mr. Barrett said the proposal was developed as a result of many conversations with many people and entities, including the Governor's Office. MEDA has not run into any resistance and has deliberately avoided saying where the office should be located. MEDA attempted to deal with staffing issues only.

**Montana League of Cities and Towns (MLCT) -- Mike Kadas, Missoula,** explained the *Montana on the Move* project. He said the project is the result of a joint effort involving the communities of Billings, Great Falls, Helena, Missoula, Kalispell, and Butte. The project focuses on education, local problem solving, and the identification of common ground for state problem solving. With the help of the Center for the Rocky Mountain West, the group took a statistical look at each community and the state, focusing particularly on economic trends over the past several years. Based on the data gathered, the group then generated a report specific to each participating community, including developing specific action plans for each community. The group also identified commonalities to develop a statewide agenda. Mr. Kadas said the participating communities drew several general conclusions:

- The economy of the state is changing due to changes in the national and international economy.

- Cities in particular are more important than they used to be and an urban strategy is needed to facilitate the growth and development of these areas.
- It is important for rural communities to establish a connection to an urban area, in order to remain economically viable.
- There has been and will continue to be considerable growth in service sector jobs, particularly in healthcare and business services.
- The Rocky Mountain West region is one of the fastest growing areas in the country.

Mr. Kadas discussed the report prepared specifically for Missoula (*Missoula on the Move*, EXHIBIT #7), which identified the trends in population growth, employment growth, personal income growth, sector employment shares, and job market data.

Mr. Kadas reported that the private non-profit organization, Montana Public Power, Incorporated (MPPI), created by the Montana Public Power Authority, has put in a bid for the old Montana Power Co. gas and electric transmission and distribution system. That system, bought by NorthWestern Corp., is part of NorthWestern's bankruptcy. MPPI was formed for several reasons:

- Montana's stability and economic development rely on access to cost-effective gas and electricity supplies;
- energy supplies must be provided in a reliable way;
- property taxes need to be paid in full and on time; and
- efforts need to be made to stabilize and utilize the excellent work force developed by the original Montana Power Co.

Mr. Kadas said creditors are focused on completing the bankruptcy process and then will consider the \$1.256 billion offer made by Montana Public Power, Inc. He said the creditors are not interested in what is in Montana's best interest, which means the opportunity to purchase this company is even more critical to Montana. When the system is sold, Montana Public Power, Inc., intends to be in a position to make a legitimate offer for the company.

Mr. Kadas said Montana cities have long been providing infrastructure, which is fundamentally essential to economic development. He said the State should focus more on cities and towns, rather than on statewide efforts because cities and towns are experienced and understand the fundamental dynamics of economic development. Given the tools to make sure that businesses have the opportunity to thrive and to move to Montana, cities and towns have the experience and expertise to do a good job.

REP. KEANE asked, regarding the NorthWestern bankruptcy, if there are other offers to purchase the system. Mr. Kadas said he is aware of one offer of \$1.6 billion by a private company for the entire corporation. There are at least three other entities that are interested in the South Dakota and Nebraska portions of the business, and their bids are in the neighborhood of \$350 million. When that amount is combined with Montana Public Power, Inc.'s bid, the bids total \$1.6 billion.

REP. KEANE asked if the MLCT has been in discussion with any of the other interested parties to be certain the asking price is met. Mr. Kadas said the MLCT is not involved directly, but that Montana Public Power, Inc. has been involved in discussions with the other interested bidders.

REP. MENDENHALL said the graph (EXHIBIT #7) was based on absolute numbers and asked for more meaningful data to show percentage increases. Mr. Kadas said the numbers for income are inflation-adjusted, so they are not absolute. He said he did not have the percentage changes but would get them for Rep. Mendenhall. Mr. Kadas added that the picture between the urban and rural change and the east and west change was similar. REP. MENDENHALL asked Mr. Kadas to provide that information to him.

REP. MENDENHALL asked from the sector employment perspective, whether analysis is available relative to the quality of jobs or to the impact of those sectors from the multiplier perspective. Mr. Kadas said average income is available by sector but that he feels the multiplier effect hasn't made much sense as a way of analyzing job benefits for the last 20 years. He explained that the multiplier effect suggests that if manufacturing was shrinking, services would decrease as well. A long term trend of just the opposite has happened, not just in Montana, but nationally as well. He said the multiplier effect analysis is appropriate for an economy dependent completely on natural resources, but Montana's economy, like the national economy, has moved beyond that, so that type of analysis has severe weaknesses.

REP. MENDENHALL said he is interested more from a policy standpoint. He said he understood Mr. Kadas' and the MLCT opinions on the need to emphasize work in cities and not rural areas because that is where the trends are. From his perspective, if there is an average income problem, the focus should be on the equality of jobs and the multiplier of different types of economic activity. REP. MENDENHALL said from 1980-2000, during the growth of services, that is the same time Montana experienced a decline in the average income. Mr. Kadas said quality of jobs is absolutely critical but repeated his concern about the validity of the current multiplier analysis. He said he didn't want a rural-urban contrast, but said both the local and national trends clearly indicate that the growth is taking place in urban areas. Small towns are going to become more and more dependent on the larger urban areas around them. More time should be spent considering how those relationships work because for a small town to stabilize, he said, it will become more and more dependent on its proximity to the larger urban area.

REP. MENDENHALL asked, regarding the Montana Public Power, Inc. bid, if any consideration has been given to its strategy as it relates to rural areas and, what the tax base implications would be if the cities are successful in purchasing the utility transmission business. Mr. Kadas said one of the main reasons for being involved in this is to preserve the tax base. MPPI is strongly committed to making sure that Montana communities and schools continue to receive that revenue flow. To get through the acquisition phase, a Board of Directors will be appointed with representation from all five participating cities. If MPPI is successful in attaining the bid, the Board will be expanded through the creation of districts to allow anyone in the service territory to have a place at the table and input on operations and rates. Another issue that will have to be considered is how MPPI interrelates with other power systems in the state, particularly the Montana co-ops. If the purchase is successful, MPPI is confident there will be an opportunity to develop some win-win situations with the co-ops.

**Montana Chamber of Commerce -- Webb Brown**, addressed the Committee, providing a brief history of the Chamber, a discussion of the Chamber's position on what the government's role in economic development should be, and the Chamber's position on critical issues such as taxation, healthcare, and workforce training (EXHIBIT #8).

SEN. MANGAN asked for clarification that the Chamber does not support freezing the business equipment tax at 3%. Mr. Brown said the Chamber does not support the freeze. SEN. MANGAN asked, should that freeze happen, if the Chamber would support the proposal heard earlier today, regarding the change in economic development tax rates on new industrial property to 1%. Mr. Brown said the Chamber would prefer that everyone have the same benefits and opportunities, so would prefer to look at it across the board, rather than target specific industries or specific governments.

SEN. MANGAN asked if the Chamber plans to support a sales tax proposal and if so, how. Mr. Brown said the Chamber will support a sales tax proposal if it provides property tax relief and relief to other existing tax bases

**Montana Ambassadors -- Jon Marchi**, discussed issues of interest to the Ambassadors, saying that the two primary goals of the Montana Ambassadors are education and economic development. In the 2003 Legislative Session, the Ambassadors focused on the income tax/capital gains tax reform bill (SB 407) and SB 465, the fund of funds bill, which did not pass. Mr. Marchi said he did not know what position the Ambassadors would have on the business equipment tax and said he would poll them and give the Committee their input.

Mr. Marchi said the Ambassadors continue to be very interested in getting some kind of equity capital legislation in Montana, saying investors in the \$0.5 - \$2 million range for equity capital are all but impossible to find in Montana. At its last meeting, the Committee learned about the success of the fund of funds model in other states. The key is to be able to deliver equity capital to businesses that deserve and need it, but also to deliver management experience and expertise through the private sector. Robert Heard, who operates a fund of funds in Oklahoma, sent a template of a bill, which has been used to create an initial draft. The draft is an excellent start and the ad hoc committee would like the opportunity, with the Committee's permission, to continue to work on it. Mr. Marchi emphasized that return on investment is the most important aspect of building a fund of funds model.

Mr. Marchi updated the Committee regarding follow-up to the May 5 Credit Suisse First Bank (CSFB) presentation by Mike Arpey and Kelly Williams. Carroll South, Executive Director of the Montana Board of Investments (BOI), and Dave Gibson of the Governor's Office of Economic Development (GOED), have accepted CSFB's offer to do a no-cost feasibility study of a venture capital/equity capital initiative in Montana. The study will be completed in late summer. The preliminary recommendation is to create a regional fund that would encompass Eastern Washington, Eastern Oregon, all of Idaho, all of Montana, and possibly Wyoming. Return on investment is the primary criteria. Mr. South has suggested that a regional fund would be of more interest to his investment criteria than perhaps a fund that concentrates only on Montana. If the study is favorable, and someone introduces legislation similar to Oregon's legislation, Mr. Marchi said he would suggest that the two initiatives (fund of funds and the pension fund initiative) be separate and distinct. The fund of funds initiative concentrates on Montana as much as it can, given the return on investment criteria. The most important thing is, if it works and makes money, that a second fund be created to totally concentrate on Montana businesses. The CSFB initiative will be regional and any excess profits will go back to the out of state investors. In Mr. Marchi's view, the two programs would be complementary to each other, not competitive. In either or both cases, they would help build an equity capital infrastructure in this state, which Montana badly needs, he said. The control issue, which has



come up several times, is very real and is still an issue. Montana would have control with a fund of funds based on the Heard template but would not be able to exert much control over the regional model proposed by CSFB.

## **AGENCY PROPOSED LEGISLATION / COMMITTEE REQUESTS**

**Department of Agriculture - Ralph Peck**, presented three agency proposals for the 2005 legislative session (EXHIBIT #9):

- 1) to revise commodity assessment enforcement and reporting requirements;
- 2) to revise the Montana Agricultural Chemical Ground Water Act; and
- 3) legislation, if needed, to reconcile federal commodity dealer licensing.

**Bart Campbell, Staff Attorney, Legislative Services Division (LSD)**, reviewed the Committee's duties regarding agency legislative requests:

- the Committee can approve and accept a recommendation for legislation;
- approving a request does not imply Committee support or endorsement; and
- if the proposed legislation is rejected by the Committee, the request may still be carried by an individual legislator.

SEN. ROUSH **moved** to approve drafting the first two legislative proposals put forth by the Department of Agriculture, and to draft the third proposal, if the Department determines it is needed. The **motion passed** on a unanimous voice vote.

Mr. Campbell said September 15, 2004, is the deadline for the Committee to authorize drafting of agency bills and if no sponsor is found, the Committee may have to find a sponsor to initiate drafting for the bills.

**Department of Commerce - Mark Simonich**, noted that the Department's legislative requests have been submitted to the Governor's Office of Budget and Program Planning (OBPP) for review and that each of the seven requests have been given a status of "approved", "disapproved", or "pending more information". The requests that were designated disapproved or pending have been revised and will be submitted again for reconsideration. Ultimately, only the bill requests approved by the Governor's Office will be brought forward by the Department to be drafted. The Department has withdrawn its placeholder request to revise statutes related to the Montana Heritage Development and Preservation Commission. The Departments requests for legislation, (as listed in *Agency-related Legislation for Economic Affairs Committee Review, Comment* (EXHIBIT #10), are:

1. to create an entity that can issue "bank-qualified" bonds under IRS rule (page 4);
2. to exempt the Board of Housing from the Montana Insurance Code (page 5);
3. to revise and clarify resort tax statutes (page 5);
4. to revise references to the Developmental Disabilities Planning and Advisory Council (page 5);
5. to revise laws related to the microbusiness development act (page 5); and
6. to create incentives to produce films in Montana (page 6).

SEN. MANGAN **moved** to approve the conceptual ideas presented for legislation, as discussed by Mr. Simonich. REP. MENDENHALL said he is hesitant to approve or disapprove a request which is not yet finalized or approved. SEN. MANGAN said the Committee's approval simply

allows the bill drafting process to move forward and is not a comment on whether the bill request is a good one or a bad one. The **motion passed** on a unanimous voice vote.

**State Auditor's Office (SAO) - John Morrison**, said the State Auditor's Office has 15 legislative requests for bill drafts but that he would only discuss the five designated to be of highest priority (EXHIBIT #10):

1. The Montana Healthcare Affordability Act -- This proposal would implement changes which would make available significant tax credits to small businesses that provide healthcare coverage to employees (page 1, Exhibit #11).

REP. MENDENHALL asked if the income limit of \$150,000 is based on what the employer or the employee earned. Mr. Morrison said the purpose of the limit is to ensure that the tax credit is available where it is most needed. He said it is intended for the business owner with 2-4 employees, whose average income is in the \$30,000 - 40,000 range, and who is either currently uninsured or is insured but is at risk of losing coverage.

2. Credit scoring legislation -- This proposal is primarily based on HB 184 from the 2003 session and does not ban credit scoring but seeks to eliminate abuses by insurers when using peoples' credit scores to determine premiums (pages 2 and 3, Exhibit #11). Mr. Morrison distributed a draft copy of the proposed legislation for the Committee's consideration (EXHIBIT #12).

REP. MCKENNEY asked if the formulas used by insurance companies are protected by the State Auditor's Office from public review, since they are all different and are considered trade secrets. Mr. Morrison said the formulas are protected as trade secrets.

3. The Montana Capital Formation Act -- This proposal is based on a fund of funds model, to create a private, professionally operated venture capital fund (page 3, Exhibit #11).

REP. MCKENNEY said the Economic Affairs Committee is also drafting a fund of funds bill and thought that the State Auditor's Office, the Governor's Office of Economic Development, and the Committee would eventually have the opportunity to work together to create one good bipartisan bill for the State of Montana.

4. Interstate Insurance Compact -- This proposal will implement steps to ensure that state insurance regulation is more uniform and consistent across the United States. This will allow national and international insurance companies to operate more cost-effectively and efficiently within the individual states. Mr. Morrison said the bill contains an "opt out" provision, in the event that standards are below or contrary to consumer protections already in place in Montana statutes (pages 3 and 4, Exhibit #11).
5. Unauthorized Transaction of Insurance -- Criminal Act -- This bill proposal would create criminal penalties for knowingly selling health insurance in Montana without a license (page 4, Exhibit #11). Mr. Morrison said many scam operations present a growing threat to Montana consumers. Mr. Morrison displayed several examples of companies advertising in Montana who are not legitimate companies and have complaints filed against them by Montana consumers.

Mr. Morrison asked the Committee members to read the remaining proposals contained in Exhibit #10 at their convenience and to contact him if there were any questions or concerns.

REP. KEANE **moved** to approve drafting of the State Auditor's Office legislative requests. The **motion passed** on a unanimous voice vote.

### **COMMITTEE-REQUESTED ECONOMIC DEVELOPMENT PROPOSALS**

#### **Option 2 - Modify Existing Programs -- Pat Murdo, Research Analyst, LSD,**

Ms. Murdo said two of the items mentioned in Option 2 (a handout from the May 5, 2004, meeting - Exhibit #6) were to address microbusiness development loan programs, which the Department of Commerce is working on through a subcommittee of its Economic Development Advisory Council, and reviewing legislation for changes in the Research & Commercialization program. Instead of proposing legislation prematurely, Ms. Murdo suggested waiting until the Advisory Council makes suggestions. Department of Commerce staff reported that the Research and Commercialization program is working well and advised against changes. One suggestion in the Board of Regent's Shared Leadership program is to increase the amount of money going to this program and the Committee may want to address that. If not, there is no legislation under Option 2.

SEN. MANGAN said it seemed to him that Options 2, 3, and 4 all came from recommendations from the ad hoc working group. In light of the time, effort, and expense that this group took to form these recommendations, this Committee should move ahead with drafting potential legislation. This action is necessary to reinforce that type of commitment and collaboration and cooperation that the Committee has received from members of the public and various business groups from around the state.

Ms. Murdo said the main focus of the ad hoc group tended to be both on angel investors and the venture capital group, so it was more the Board of Regents that was looking at the Research and Commercialization money. She didn't think anyone would be offended if the Committee did not authorize legislation under Option 2.

#### **Option 3 - Encourage Angel Investors Via Network Supports**

Ms. Murdo said the consensus of the ad hoc group was to recommend a joint resolution to encourage angel investors via network supports. She distributed copies of the draft resolution (EXHIBIT #13). Ms. Murdo said the resolution could be fine-tuned as the Committee sees fit. She noted that there are differences in opinion as to whether a bill or a resolution would be more effective, saying that Director Simonich and Russ Fletcher would both prefer a bill and that Roger Lang and Dave Gibson think a resolution is workable.

SEN. MANGAN said he also preferred a bill and that funding is essential for the GOED if economic development in Montana is to be successful. He said passing a resolution will not provide the needed staff or resources but would support the resolution, if that is what the Committee wants.

REP. MCKENNEY said resolutions can be effective and related his personal experience of sponsoring a successful resolution. He said the Committee can mandate that the GOED and the Department of Commerce invite angel investors to participate but that angel investors cannot be mandated to participate.

Ms. Murdo said she had been asked by the Legislative Audit Division (LAD) to let the Committee know that a performance audit will be done on the GOED before this fall and there are six positions funded for that office. She said she didn't know why they are not filled and the issue of FTEs should be discussed with the LAD. She also said the BOR Shared Leadership proposal at one point had suggested allocating \$250,000 - 300,000 of additional funding for the GOED.

SEN. ROUSH **moved** to support the joint resolution for encouraging angel investors. The **motion passed** on a unanimous voice vote.

#### **Option 4 - Fund of Funds**

Ms. Murdo and **Karen Powell, Deputy Securities Commissioner, State Auditor's Office** presented proposals for potential fund of funds legislation. Ms. Murdo said the ad hoc group has worked on this issue and after the presentations at the May 2004 Committee meeting by Robert Heard and Stephen Ringlee, who run fund of funds operations, Ms. Powell took over drafting of the fund of funds legislation. Ms. Murdo said Mr. Marchi had contacted her in the past week and asked her to have fund of funds legislation prepared for the Committee's consideration at today's meeting. Ms. Murdo distributed a chart of policy choices for a fund of funds bill or In-state Capital Promotion (EXHIBIT #14) and a draft copy of LC 9600 she prepared for Committee consideration (EXHIBIT #15).

Ms. Powell noted that at a meeting regarding angel investors held recently in Bozeman with ad hoc working group members, an issue not mentioned by Ms. Murdo was that there was a long discussion on how to craft a bill that would support angel investors. Those present came to the decision that they would prefer to see a fund of funds model or some other type of legislation. When the group looked at the package of equity capital legislation, participants said that funding something like the fund of funds would do more to help the kind of economic development that this Committee and the ad hoc group has been looking at. The idea is to go forward with one very strong bill that everyone could support and then do as much as possible for the other issues, such as angel investors.

Ms. Powell said she was tasked with the initial drafting of the fund of funds model and had received legislation from Robert Heard and Stephen Ringlee to use as a template (EXHIBIT #16). Ms. Powell said she is attempting to merge that bill with SB 465 (2003 session) and into reasonable form before presenting it to the Committee. The constitutional issues raised last session regarding SB 465 are still being dealt with and Ms. Powell said she didn't want to bring forth a draft with serious constitutional deficiencies, so she would provide copies of the draft when those issues are settled. Ms. Powell asked if the Committee wishes to work with the State Auditor's bill or have the ad hoc group take a look and try to flesh out some of the details, or whether those can be done simultaneously.

Ms. Murdo said the Committee has one meeting left and it can be postponed if additional time is needed. The issue is whether or not this will be a Committee bill. Ms. Murdo referred the Committee to the policy choices handout (Exhibit #14) and discussed the pros and cons of the fund of funds bill.

Ms. Powell said Carroll South at the Board of Investments is very opposed to the BOI providing any loan to a fund of funds. The model that the SAO is drafting removes all language in regard to a loan from the Board of Investments because the SAO felt if there was going to be significant opposition from the BOI, it wasn't worth moving forward.

Ms. Murdo said funds available through the Board of Investments could be the pension funds. She noted that another concern regarding SB 465, the previous fund of funds legislation, was that it was very complex. SB 465 set up several different groups so that there would be an arms-length relationship with the state. LC 9600 asks the State to hire someone as a private investment group through a contract.

REP. MCKENNEY said it seems to be apparent that everyone involved has independently come to the conclusion that a fund of funds bill is the best option so it makes sense to put one bill forth that everyone involved can support. He said how to fund it and how to actually structure the program are still questions. He asked if the GOED and the SAO are proposing two different funding mechanisms to get it off the ground. Ms. Powell said she has discussed this with Mr. Gibson of the GOED and they are in agreement that whatever comes forward will be one package and one that both offices can live with. She said it is her understanding that some states have provided seed money to start the investment process. The fiscal note from SB 465 was purely for the staff to find a private organization to manage this process and the private organization would invest its own money. The SAO model and LC 9600 both provide funding for a staff member to appoint a board of directors and to use a Request For Proposals (RFP) process. In regard to paying the money back, once an investment is liquidated successfully, the funds would be paid back to the investor. The real question is what happens if things go wrong. All of the models provide a contingent deferred tax credit and the specifics of how that would work must be determined.

REP. MCKENNEY asked specifically about the \$200,000 fiscal note associated with SB 465 and asked, if it could not be a loan from the BOI, then from whom and how would it be paid back. Ms. Powell said it would be paid back on the basis of returns coming in from the investments. Ms. Murdo said one of the reasons she wondered about the microbusiness development loan program is that there is money in the program that Commerce could reallocate. The Department of Commerce is considering reallocating it by having additional microbusiness development loan offices. One possibility might be to see if there is a way to channel some of that money to offset the costs, instead of taking out a loan.

SEN. MANGAN **moved** to allow a Committee bill to be drafted with the assistance of the ad hoc group, the GOED, and the SAO, and forwarded to this Committee for review.

The **motion passed** on a unanimous voice vote.

## Committee Discussion

REP. MCKENNEY asked for discussion on the MEDA legislative proposals and asked if the Committee wanted to approve drafting one or all of the proposals as Committee bills (*Montana Economic Developers Association Initial Agenda for the 2005 Legislative Session - EXHIBIT #17*).

SEN. MANGAN said MEDA has worked very hard with this Committee and has developed interesting ideas for consideration. He said Mr. Barrett had come to the meeting in hopes that some of MEDA's ideas would be presented as Committee bills and that the Committee would do well to present some of the ideas to legislative colleagues. SEN. MANGAN **moved** to draft:

- a Committee bill that would revise a tax incentive by decreasing the tax on new industrial property from 3% to 1% in section 15-6-135, 3(a), MCA;
- a Committee bill that redefines new industry in 15-24-1402, MCA;
- a Committee bill to revise worker training statutes.

REP. KEANE said he preferred decreasing the tax to 1.5%, rather than 1%. REP. MCKENNEY asked that the motion remain as SEN. MANGAN stated it and that the percentage amount could be amended at the next meeting when an actual bill draft is available.

The **motion** passed on a unanimous voice vote.

SEN. MANGAN **moved** to have staff draft a Committee bill exempting economic development levies from local government spending cap. The motion **passed** on a unanimous voice vote.

## PUBLIC COMMENT

**Sheila Stearns, Commissioner of Higher Education**, said she supports inclusion of everyone who has been working on shared approaches to economic development to participate in the legislative process.

Commissioner Stearns updated the Committee on the Board of Regents Shared Leadership Program:

- the program has continued to work its way through the state during the course of the year and most recently held forums in Butte and Dillon;
- major issues include strengthening two-year education and its connection to work force training;
- the PostSecondary Education Policy and Budget Subcommittee (PEPB) will be meeting soon to formulate specific legislative proposals;
- the Leadership Program identified six action items:
  - ▼ Workforce training and 2-year education;
  - ▼ funding and coordination of distance learning;
  - ▼ greater emphasis on partnership between the University System and Montana businesses;
  - ▼ greater cooperation and collaboration between governmental agencies and the University System;
  - ▼ increased access to postsecondary education; and

- ▼ promotion of Montana partnerships for recruiting businesses, for alumni networks, and for recruiting more nonresident students for the u-system.

**ADJOURN/RECESS**

With no further business before it, the Committee recessed until Friday, July 1, 2004.

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