



Economic Affairs Interim Committee

64th Montana Legislature

SENATE MEMBERS

GORDON VANCE--Vice Chair
TOM FACEY
RICK RIPLEY
LEA WHITFORD

HOUSE MEMBERS

RYAN LYNCH--Chair
MIKE LANG
NATE MCCONNELL
VINCE RICCI

COMMITTEE STAFF

PATRICIA MURDO, Lead Staff
JAMESON WALKER, Staff Attorney
LAURA SHERLEY, Secretary

MINUTES LOG

April 14, 2016
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.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

REP. RYAN LYNCH, Chair
SEN. GORDON VANCE, Vice Chair

SEN. TOM FACEY
SEN. RICK RIPLEY
SEN. LEA WHITFORD

REP. MIKE LANG
REP. NATE MCCONNELL
REP. VINCE RICCI

COMMITTEE MEMBERS EXCUSED

STAFF PRESENT

PATRICIA MURDO, Lead Staff
JAMESON WALKER, Staff Attorney
LAURA SHERLEY, Secretary

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

COMMITTEE ACTIONS

The Economic Affairs Interim Committee at its April 14 meeting:

- voted 6-2 to send a letter recommending that the Montana State Fund Board of Directors not buy a parking garage adjacent to the Montana State Fund building, which the City of Helena had proposed to sell;
- requested a bill draft that would allow the Department of Labor and Industry to statutorily implement its informal advisory process used to keep licensing boards attached to the department from running afoul of antitrust concerns;
- asked staff to request from the Labor Commissioner a list of licensing boards that may appropriately benefit from having an enterprise fund structure for its budgeting;
- requested information on whether 9-1-1 fees are optional; and
- revised its June meeting date from the work plan-proposed date of June 23 to a new date of June 22. That meeting will be in Room 137 of the State Capitol.

CALL TO ORDER AND ROLL CALL

00:00:01 Rep. Lynch called the meeting to order at 8:33 a.m. The committee secretary took roll call ([Attachment 3](#)).

Agenda and Meeting Materials Review -- Pat Murdo, committee staff

00:00:30 Ms. Murdo ([Exhibit 1](#))

ASSIGNED STUDIES -- SB 390 -- DEPARTMENT FEES FOR LICENSING BOARDS

Duties: Boards to State and State to Boards. Implication of Active Supervision?

Analysis of State Immunity Doctrine in Supreme Court Decision in NC Dental Case -- Lisa Kopchik, Federal Trade Commission (By WebEx)

00:09:10 Ms. Kopchik ([Exhibit 2](#))

00:43:22 Sen. Facey asked if the member composition of a licensing board is a controlling factor.

00:45:12 Sen. Facey asked if the board's duty to protect public health is a deciding factor for the licensing board.

00:47:10 Sen. Facey asked if supervision of the licensing board would fall under the guidance of the commissioner of labor or the bureau chief.

00:48:56 Sen. Facey asked if the provisions in the Montana constitution regarding public notification and open records are helpful in written records.

00:50:05 Sen. Facey asked if some of the boards are not under control when are the repercussions initiated (refer to Exhibit 2, slide 12, and slide 15).

00:51:52 Sen. Facey asked if charging a high fee for licensing could result in legal action.

00:53:29 Sen. Ripley and Ms. Kopchik discussed the terms 'statute', 'policy', and rulemaking.

00:55:14 Sen. Ripley asked if the policy that is through the board's interest is also through the state.

00:57:53 Rep. Lang asked if there has been a court ruling in regarding the impact of who makes the board appointments.

Advice Given Montana Licensing Boards on Active Supervision -- Judy Bovington, Dept. of Labor and Industry chief legal counsel

- 01:00:29 Ms. Bovington ([Exhibit 3](#))
01:06:46 Rep. Ricci asked if active supervision could apply to the Board of Livestock.
01:07:28 Sen. Facey asked if a rule is suspended, might it be considered active supervision by the legislature before the action takes place.
01:09:10 Sen. Facey asked if the appeal process that Ms. Bovington mentioned is in statute or just an agreement within the department.

Public Comment

None

Other State Models -- Washington Department of Licensing and its Use of Boards -- Lorin Doyle, administrator for Regulatory Board Section, Washington Dept. of Licensing (by phone)

- 01:11:44 Ms. Doyle ([Exhibit 4](#))

"Public Good" Budgeting for State Agencies vs. Special Revenue Fees/Enterprise Funds

Todd Younkin, administrator of the Business Standards Division

Julie Johnson, Legislative Services Division attorney

- 01:30:28 Mr. Younkin
01:32:36 Sen. Facey asked if there is an appropriation in HB 2 for a certain board, can the commissioner suspend the board activities if another board needs spending authority.
01:34:43 Sen. Facey asked Mr. Younkin to define spending authority and appropriation funds versus general funds.
01:35:38 Sen. Facey asked if there is an end to the transfer of fees within the Board of Funeral Service.
01:36:06 Sen. Facey asked how the Board of Funeral Service is spending their funds and what type of action the board is taking.
01:38:13 Sen. Facey asked if the boards under the Business Standards Division do not receive general fund dollars and are fee funded only.
01:38:54 Rep. Lynch asked Mr. Younkin how the Board of Public Accountants use of the enterprise fund is working.
01:40:43 Ms. Johnson ([Exhibit 5](#))
01:44:43 Sen. Facey asked for clarification on how the enterprise fund associates with the Board of Public Accountants.

Public Comment

- 01:47:50 Jessica Reynolds, Speech Language Pathologist, Helena MT, spoke about the licensing procedures and fees in Colorado as an example of another state's licensing practices.
01:51:47 Lesley Pearce-Hopper, Speech Language Pathologist, Helena MT, spoke about the fees for licensing in Montana and Oregon ([Exhibit 6](#)).
01:56:12 Travis Newman, Mortician and President of the Montana Funeral Directors Association, Helena MT, spoke about the Board of Funeral Service and HB 223, the death certificate bill.

Questions from the committee

- 02:00:11 Sen. Facey asked Mr. Newman what the licensing board has done to decrease the number of complaints.
- 02:01:53 Rep. Lynch asked Mr. Younkin to clarify who sets the fees and budget for the boards. He also asked about transparency in the office.
- 02:06:05 Rep. Lynch asked Mr. Younkin if the Business Standards Division is able to track legal fees versus board administrative fees and overhead costs, and if these can be viewed by the public.
- 02:07:39 Rep. Lang asked Ms. Reynolds how speech therapists are employed in Montana and which positions are mandated by law.
- 02:09:29 Rep. Lang asked if a school system employs a speech therapist and is mandated by law to have the position covered, does the school have to pay the same licensing fee.
- 02:09:58 Sen. Facey asked Ms. Reynolds if the licensing fees are paid by the individual rather than the employer.
- 02:10:38 Sen. Facey asked Ms. Reynolds if there is a graduate program for speech pathology in Montana.
- 02:11:04 Sen. Ripley asked Ms. Reynolds if her school district pays for the teachers' licensing fees.
- 02:11:31 Sen. Ripley asked Ms. Reynolds if the schools that belong to Co-Ops pay the speech pathologists' licensing fees.

Discussion of Next Steps on SB 390

- 02:12:06 Rep. Lynch ([Exhibit 7](#))
- 02:12:45 Ms. Murdo discussed the committee's possible action items (refer to Exhibit 7).
- 02:16:52 Sen. Facey requested a bill draft involving the informal process of review and also asked the commissioner of labor to recommend licensing boards that might benefit from an enterprise fund.
- 02:19:12 Sen. Vance requested that the next steps on SB 390 be on the June meeting agenda so that the committee can review the additional paperwork they received today.

RULE REVIEW -- Jameson Walker, Staff Attorney

- 02:20:35 Mr. Walker ([Exhibit 8](#))([Exhibit 9](#))
- 02:26:49 Sen. Ripley asked about the timing and notice regarding the Montana State Fund rulemaking.

BREAK (Reconvened at 11:16 a.m.)

MEMBER OR EMERGING ISSUE -- BROADBAND AS ECONOMIC DEVELOPMENT **Rural Montana's Use of Broadband and Wireless: Struggles and Possible Solutions**

Michael Candelaria, Mid-Rivers Telephone Cooperative

Mike Kilgore, Nemont Telephone Cooperative

- 02:43:37 Mr. Kilgore and Mr. Candelaria ([Exhibit 10](#))([Exhibit 11](#))([Exhibit 12](#))([Exhibit 13](#))([Exhibit 14](#))([Exhibit 15](#))
- 03:10:35 Rep. McConnell asked Mr. Kilgore to clarify the language on his presentation (see Exhibit 10).
- 03:14:01 Rep. McConnell asked what kind of impact it would have on the business if the

03:14:31 state was to allow access and change definitions in the right-of-way statutes. Rep. Ricci asked Mr. Kilgore if the business is designed to continue to be profitable after built if funding is met.

03:15:34 Rep. Ricci asked if the business will need continued subsidies in order to maintain service.

03:16:35 Rep. Lynch asked that when the technology is upgraded, can the physical structure of the towers continue to be utilized.

03:17:52 Sen. Facey asked which part of the federal government that the panel is referring to in their presentation.

03:19:00 Sen. Facey discussed the Department of Administration 9-1-1 funds and the statute language.

03:20:10 Sen. Whitford asked if the 9-1-1 fee is optional.

03:20:34 Sen. Whitford asked Mr. Walker for the statute language that was referenced by the presenters.

03:20:50 Sen. Whitford asked why the recovery costs were denied.

03:22:12 Sen. Whitford asked Mr. Kilgore to expound on the expenses, upgrades, and maintenance of the wireless company.

03:24:57 Sen. Whitford asked for clarification of the \$30 million in the 9-1-1 fund.

03:26:21 Sen. Whitford asked Mr. Walker who is in charge of the 9-1-1 account funds.

03:26:34 Rep. Lang asked how the Montana Sage Grouse Stewardship Act has affected both the companies.

03:28:43 Sen. Whitford recommended that the companies meet with the State-Tribal Economic Development Commission.

03:30:01 Rep. Lynch noted that the Energy and Telecommunications Interim Committee is also reviewing the issue of broadband in rural Montana (See information at 05:34:10).

LUNCH (Reconvened at 12:59 p.m.)

AGENCY MONITORING -- MONTANA STATE FUND OPTION TO PURCHASE PARKING GARAGE

Laurence Hubbard, President of Montana State Fund

Ron Alles, Helena City Manager

04:27:22 Mr. Hubbard

04:27:41 Mr. Alles

04:33:18 Mr. Hubbard ([Exhibit 16](#))([Exhibit 17](#))

04:42:10 Sen. Ripley asked Mr. Hubbard if Montana State Fund buys the parking garage, would it be an investment rather than an asset.

04:42:55 Sen. Ripley asked Mr. Hubbard to clarify the benefits he listed ([Exhibit 18](#)).

04:44:03 Sen. Ripley asked Mr. Hubbard about the plan to install solar panels to the parking garage.

04:44:53 Rep. Lang asked Mr. Hubbard to review the expenses that will be associated with the purchase and maintenance of the parking garage.

04:47:46 Rep. Lang asked Mr. Hubbard if the funds spent yearly include maintenance of the parking garage.

04:48:05 Rep. McConnell asked Mr. Alles about the cost of the parking garage.

04:49:19 Rep. McConnell asked Mr. Hubbard how the cost of the parking garage will be a good deal for Montana State Fund.

- 04:51:34 Rep. McConnell asked Mr. Hubbard if he agrees that the Montana Constitution requires that the Montana State Fund be managed as a prudent expert with managed assets and whether purchasing the parking garage complies with that standard ([Exhibit 19](#)).
- 04:52:25 Rep. Lynch asked Mr. Hubbard what happens to the investment if the state sells the parking garage in the future.
- 04:55:50 Sen. Facey asked why the parking garage purchase is under the purview of the committee.
- 04:57:50 Sen. Facey commented that he would like more time to review the material before a decision is made.
- 04:58:02 Sen. Ripley asked Mr. Hubbard if the current agreement of the parking garage is in effect for 20 more years.
- 04:58:20 Sen. Ripley asked if the Montana State Fund will pay property tax on the parking garage.

Public Comment

- 04:59:03 Sen. Jim Keane, SD 38
- 05:03:23 Sen. Ripley asked if a vote could be taken in regards to the purchase of the parking garage.

Motion

- 05:03:47 Rep. McConnell made a motion to send a letter and make a recommendation that the Montana State Fund does not purchase the parking garage.
- 05:04:42 The committee discussed the motion.
- 05:05:28 Mr. Alles
- 05:05:51 Mr. Hubbard
- 05:06:15 The committee continued to discuss the motion.

Vote

- 05:07:26 The motion passed on a 6-2 vote, with Rep. Ricci and Sen. Vance voting 'no' ([Attachment 4](#)).

ASSIGNED STUDIES -- HJR 29 -- AIR AMBULANCE STUDY

Update from State Auditor's Office on Working Group -- Jesse Laslovich, chief counsel

- 05:08:44 Mr. Laslovich
- 05:17:14 Sen. Facey commented about the work that has gone into the air ambulance study.
- 05:18:29 Sen. Vance commented about the letter from the Economic Affairs Interim Committee that was sent to Sen. Daines office.
- 05:19:09 Rep. Lynch commented about also hearing from Sen. Tester's office regarding the letter.

Public Comment

- 05:19:40 Dave Stinar, Helena MT
- 05:21:41 Rep. Ricci commented on the balance billing that was mentioned in Mr. Stinar's public comment.
- 05:22:04 Rep. Lynch commented on the work and people behind the air ambulance study.

PUBLIC COMMENT ON ANY ISSUE WITHIN THE ECONOMIC AFFAIRS INTERIM COMMITTEE PURVIEW

None

MEMBER OR EMERGING ISSUE

Followup: Broadband Discussion

05:34:10 Sonja Nowakowski, Energy and Telecommunications Interim Committee staff

AGENCY MONITORING -- BOARD OF LIVESTOCK

Update on Office of Budget and Program Planning vis-a-vis Dept. of Livestock and Background on Assessments and Fees for Board of Livestock, Board of Milk Control

Mike Honeycutt, executive officer

Information from Budget Director Dan Villa (letter to EAIC)

John Lehfeldt, Board of Livestock presiding officer

Nina Baucus, Board of Livestock member

Rob Stutz, legal counsel for the Board of Milk Control and Dept. of Livestock

05:40:15 Ms. Murdo ([Exhibit 20](#))([Exhibit 21](#))

05:40:55 Mr. Honeycutt ([Exhibit 22](#))

05:57:30 Mr. Lehfeldt

05:59:33 Rep. Ricci asked Mr. Honeycutt about milk inspection funding (refer to Exhibit 21).

06:02:12 Rep. Ricci asked Mr. Honeycutt if the under spending could be moved to another per capita fee line.

06:07:23 Rep. Lynch asked for an estimate of the amount of money that the board is looking to receive from the general fund to cover the milk inspection costs.

06:13:37 Sen. Ripley asked Mr. Honeycutt what caused the shortfall in revenue projection for the milk inspection budget.

06:15:48 Sen. Ripley asked Mr. Honeycutt if the shortfall in the revenue projection has been ongoing and not just this billing cycle.

06:16:50 Sen. Ripley asked Mr. Honeycutt what the plan is to balance the budget.

06:18:54 Sen. Ripley asked Mr. Honeycutt to address the diagnostic lab revenue shortfall.

06:20:32 Sen. Ripley asked Mr. Honeycutt and Ms. Baucus what is transpiring with the diagnostic lab building at Montana State University-Bozeman.

06:24:45 Sen. Ripley asked Ms. Baucus about various groups that are associated with the diagnostic lab.

06:26:27 Sen. Ripley asked Ms. Baucus how the committee members can attend the diagnostic lab meetings.

06:27:00 Sen. Whitford asked Mr. Honeycutt to clarify the Board of Livestock organizational chart ([Exhibit 23](#)).

06:30:18 Sen. Whitford asked if there is redundancy between the Milk and Egg Bureau and the Board of Milk Control.

06:36:24 Sen. Facey commented about the interest of the milk producers protecting themselves with milk inspections.

06:37:11 Rep. Lang commented about the work of the committee and the smaller milk producer business around the state.

06:38:30 Rep. Ricci asked Mr. Honeycutt about milk control and pricing.

06:39:50 Mr. Stutz ([Exhibit 24](#))([Exhibit 25](#)).

06:47:34 Sen. Facey commented on the small milk producer businesses and milk

inspection fees.
06:48:57 Sen. Ripley commented about his concern with the diagnostic lab.
06:51:13 Sen. Vance commented about the meetings that took place in Bozeman regarding the diagnostic lab.

Department of Livestock Budget Review, Report on Activities

Amy Carlson, Fiscal Director, Legislative Services Division

06:53:23 Ms. Carlson ([Exhibit 26](#))
06:56:48 Mr. Lehfeldt
06:59:30 Rep. Lynch asked if the milk assessment rule has been pulled or if it is proceeding.

Public Comment

None

REPORT OF LIAISONS TO MONTANA STATE FUND AND RAIL SERVICE COMPETITION COUNCIL

07:00:35 Sen. Vance discussed his liaison position with Montana State Fund.
07:01:56 Rep. Lynch commented on the Montana State Fund meeting he attended.
07:02:26 Sen. Facey discussed his liaison position with the Rail Service Competition Council.

SET JUNE MEETING DATE -- DIRECTIONS TO STAFF

07:04:35 Rep. Lynch and the committee discussed the next Economic Affairs Interim Committee meeting date.
07:05:09 Ms. Murdo asked the committee whether there was interest in moving oversight of the liquor control division to the Economic Affairs Interim Committee from the Revenue and Transportation Interim Committee.

Motion

07:06:12 Sen. Facey moved that Ms. Murdo draft a bill for the Economic Affairs Interim Committee to have interim oversight of the Liquor Control Division.
07:06:38 The committee discussed the motion. Sen. Vance said he would talk to the chair of the Revenue and Transportation Interim Committee about the transfer idea.
07:09:41 Sen. Facey withdrew the motion.
07:09:50 Rep. Lynch discussed the upcoming agenda items for the committee.
07:10:41 Ms. Murdo presented an update from Ms. Kopchik about her presentation ([Exhibit 27](#)).

ADJOURNMENT

07:11:25 Rep. Lynch adjourned the meeting at 3:44 p.m.

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