



# Economic Affairs Interim Committee

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## 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

October 23, 2003

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. NANCY RICE FRITZ  
REP. JIM KEANE  
REP. SCOTT MENDENHALL

### COMMITTEE MEMBERS ABSENT

SEN. MIKE TAYLOR

### STAFF PRESENT

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

### AGENDA & VISITOR'S LIST

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

## **COMMITTEE ACTION**

The Committee:

- approved the minutes from the June 11, 2003, meeting as written.
- directed staff to finalize plans for a joint meeting with the State Administration and Veterans Affairs Interim Committee in January 2004.
- directed staff to draft a letter to be sent to U.S. Secretary of Commerce Donald Evans urging a speedy resolution of the Canadian Softwood Lumber/WTO/NAFTA dispute and assistance for displaced lumber workers.
- directed staff to draft a letter to contact the businesses on the waiting list for a state meat inspector to determine the extent of need for additional inspectors.
- directed staff to draft a letter to the Legislative Council requesting funding for Sen. Roush to attend the November Pacific Northwest Economic Region conference.

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

Rep. McKenney called the meeting to order at 10 a.m. and roll call was taken. Sen. Taylor was excused, all others were present. Rep. McKenney reminded the Committee members the meeting was being broadcast on HCTV.

Rep. McKenney welcomed members and citizens to the meeting and thanked Ms. Murdo for all the preparation she did for the meeting. He reviewed the agenda and asked the Committee to approve the minutes from the June 11, 2003, meeting. The minutes were approved as written.

## **UPDATE ON COMMITTEE ISSUES**

**Pat Murdo, Research Analyst**, referred to a letter from the State Administration and Veterans' Affairs Interim Committee (SAVA) sent to Rep. McKenney regarding oversight of the State Fund. As in the past two interims, the SAVA asked the Economic Affairs Interim Committee to assume SAVA's oversight of the State Fund and Ms. Murdo reported that Chairperson McKenney agreed to take on this responsibility again.

Ms. Murdo also provided an update from the Energy and Telecommunications Interim Committee (ETIC) and reviewed the following with the Committee (Exhibit #1):

- Coordination between Committees;
- ETIC Work Plan Topics of Interest from an Economic Development Perspective; and
- Past ETIC Meeting Highlights.

Ms. Murdo referred the Committee to the handout in their folder regarding 2003 economic development legislation (Exhibit #2) and noted that many energy-related items were included on the list. Ms. Murdo added that bills that did not pass were not included on the list.

Ms. Murdo discussed a memo in their folder regarding a proposed half-day joint meeting with the SAVA to deal with a proposed federal rule change affecting financial institution regulation and federally chartered banks (Exhibit #3).

Ms. Murdo said the joint half-day meeting was scheduled for January 23, 2004. Ms. Murdo said the Committee's schedule allows for flexibility and the joint meeting would fit, if the Committee wishes to pursue this issue. The Committee discussed its meeting schedule and referred to the Work Plan Work Sheet (Exhibit #4). Hearing no disagreement, Rep. McKenney said to go forward with the joint meeting and instructed Ms. Murdo to finalize plans with the SAVA staff.

Ms. Murdo asked the Committee members to review the Draft Work Plan (Exhibit #5), specifically page 6, and asked the Committee to rank the proposed activities from high priority to low priority. The Committee prioritized its activities as follows:

- Rule Review - low priority - respond as needed;
- Agency Monitoring - high priority now, diminishing as the Committee has a chance to hear from each agency;
- Draft Legislation Review - low priority for now, will increase in priority as the Committee completes its work and receives agency bill draft requests;
- SJR 17 study - high priority with full Committee participation;
- Monitoring Important Activities - high priority - The Committee has already outlined a schedule of topics and is proceeding on that basis.
- Member Issues - medium priority and the Committee will address these issues as they arise.

#### **DEPARTMENT OF LIVESTOCK (DOL), GEORGE HARRIS, ADMINISTRATOR, CENTRALIZED SERVICES**

Mr. Harris began his overview of the DOL by reading the DOL Mission Statement. Mr. Harris listed the DOL Board Members, described the organizational structure of the DOL, and gave detailed information on the application process that meat and poultry businesses must complete to become licensed to do business in Montana (Exhibit #6).

Sen. Roush asked if there was a duplication of services with the County Health Departments. Mr. Harris said the two departments have different duties so he did not see any overlap of services.

Sen. Roush asked if the State of Montana inspects boxed beef coming into the Montana from Canada. Mr. Harris said the DOL inspects meat-processing plants in Montana and did not think the State inspects boxed beef but that he would find out.

Sen. Mangan asked how often the inspections are done and how long a business's certification lasts. Mr. Harris said plant inspections can be done as frequently as daily or weekly and said this ensures a safe and healthy product for the public.

Sen. Mangan asked if the businesses waiting for inspection and licenses (Exhibit #6 - page 4) have been prevented from doing business due to the lack of inspectors. Mr. Harris confirmed that any wholesale aspect of these businesses that require meat inspection are "on hold" and cannot operate until licensing and inspections are completed. He said that, if additional inspectors were funded, these businesses could open or expand. Sen. Mangan asked Mr. Harris to report the status of these businesses to the Committee at a future meeting. Mr. Harris agreed to do this.

Rep. Mendenhall asked about the status of brucellosis in Montana. Mr. Harris said brucellosis is on the agenda of every Board meeting, it is an issue that is taken very seriously, and the department is working diligently to maintain Montana's brucellosis-free status. Mr. Harris noted the bison management plan designates 3,000 head as capacity but a recent survey counted over 4,500 head in Yellowstone Park. He added the DOL has six permanent full-time employees and three seasonal full-time employees working on the brucellosis/bison management issue. Mr. Harris provided a copy of the 2002 FY Bison Fiscal Report (Exhibit #7).

Rep. Mendenhall asked Mr. Harris for any DOL data on the West Nile Virus. Mr. Harris said he would get the newest information to the Committee during its afternoon meeting.

Sen. Roush asked if the State is working with the federal government on the Bovine Spongiform Encephalopathy (BSE) issue. Mr. Harris said the DOL is very involved in studying this issue. Sen. Roush asked if the DOL has input into if the Canadian border being reopened to cattle trade. Mr. Harris said to the best of his knowledge the DOL and the Department of Agriculture both will have input into this decision.

Rep. McKenney asked Mr. Harris to comment on the issue of Homeland Security, how the federal grant of \$374,000 for program implementation had been spent, and what the DOL's role is in this program. Mr. Harris replied the Homeland Security grant funds had been spent mainly on equipment such as diagnostic laboratory equipment. This will allow Montana to quickly test for potentially devastating disease outbreaks, such as anthrax and other animal-borne diseases. Rep. McKenney asked Mr. Harris to clarify that the livestock industry could be a target for terrorism. Mr. Harris said that was true.

Rep. McKenney asked Mr. Harris to elaborate on price controls for milk, as discussed in Exhibit # 6. Mr. Harris said the purpose of the milk pricing is to properly compensate the dairyman to ensure he gets a fair price for his product and is able to stay in business. Out-of-state competition and federal guidelines make it difficult for Montana producers to operate economically and the DOL makes sure the producers are properly compensated by the two major plants that buy and process milk.

Rep. Mendenhall asked Mr. Harris to update the Committee on the mega-dairy being built in eastern Montana and what impact it would have on Montana's milk quota system. Mr. Harris said the facility would have to be licensed to operate in Montana but the milk is to be shipped to North and South Dakota and made into cheese.

#### **DEPARTMENT OF AGRICULTURE (DOA), RALPH PECK, DIRECTOR**

Mr. Peck distributed a folder of information (Exhibit #8) and discussed it with the Committee. Mr. Peck covered information concerning:

- the diversity of Montana agriculture;
- ag-related jobs in Montana;
- cash receipts for Montana agriculture;
- the effects of drought on Montana agriculture;
- how Montana ranks nationally in ag production; and
- other issues important to Montana agriculture such as agriculture science studies and

programs and economic development opportunities for Montana producers.

Sen. Mangan said he noticed in Mr. Peck's materials that in 2001 the DOA authorized a Growth Through Agriculture (GTA) grant to fund state meat inspection. He asked if that was an isolated occurrence or if it could be a permanent source of funding.

Mr. Peck said due to dire budget circumstances, the DOA worked with the DOL to present to the GTA Council a request for funding for additional state meat inspectors. Mr. Peck explained that while an applicant can come before the Council three times, this was a temporary solution until the 2003 legislature could address it.

Sen. Mangan said the Grain Lab in Great Falls has undergone budget cuts in the last several years and asked for an update. Mr. Peck reported the Grain Lab continues to struggle but the laboratory certification legislation passed in the 2003 session has stabilized the lab somewhat. It is operating with a minimum staff. A Task Force to study the situation is planned for the Spring of 2004.

Sen. Roush asked if the State was getting control of noxious weeds in Montana and if the trust fund that the legislature created has helped. Mr. Peck said it was a mixed review:

- There is a statewide weed plan in place.
- There is some improvement in certain areas, other areas have gotten worse, and prevention efforts have been effective in some areas.
- Insect, chemical, and biological control measures are being used in the fight.
- Limited funding restricts progress but supervisors are working hard with what funding is available.
- The Forest Service and Bureau of Land Management are cooperating with state efforts.
- The State would like more cooperation and participation than it is receiving from the Bureau of Reclamation.
- The trust fund is currently \$4.75 million, the DOA has been authorized to increase it to \$10 million, and the interest is used for weed control projects.

## **RULE REVIEW AND CONFIRMATION OF RULE REVIEW PLAN**

**Bart Campbell, Staff Attorney**, informed the Committee that Rep. Eve Franklin has an issue of concern regarding the Board of Medical Examiner's rules dealing with scope of practice for medical assistants. The rules had not been posted prior to the meeting. Mr. Campbell said Rep. Franklin would discuss her concerns before the Committee in the afternoon.

## **MEMBER ISSUES**

Sen. Roush reported on the Pacific Northwest Economic Region (PNWER) meeting he attended in Calgary, Alberta, in July of 2003. He discussed the following:

- PNWER is very pro-business growth and development.
- He was one of three Montana delegates in attendance.
- 450 delegates from private and public entities participated.
- Many issues, including agriculture, were addressed but much of the discussion was

- geared toward energy issues and policy.
- Alberta is building ten gas-fired generation plants. Sen. Roush thinks Montana should be working to become a part of this project.
- Montana has too many groups working on energy issues. and Sen. Roush thinks the fragmentation is detrimental to developing a unified energy policy for Montana.
- Montana is the only state or province in the membership area not paying dues.
- Legislative Council agreed to pay the \$300 registration fee for the three delegates and PNWER supplemented that amount with additional \$750 scholarships.
- There is another meeting scheduled for Portland, Oregon, in November of 2003 and Sen. Roush feels strongly that there should be representation from Montana in attendance and suggested perhaps an Energy and Telecommunications Interim Committee member would be a good choice.
- Montana needs to be a more active participant and is being bypassed on many business opportunities because it is not a dues-paying member.

Rep. Keane said it was a disgrace that Montana was missing out on the training, education, and economic opportunities these types of organizations provide and strongly encouraged members to support funding for PNWER and Council on State Governments (CSG) memberships in the next legislative session.

Ms. Murdo directed the Committee's attention to the memo written at Sen. Anderson's request regarding the fund established by the Canadian Softwood Lumber/WTO/NAFTA dispute (Exhibit #9). After discussion, the Committee decided the best course of action at this time was to draft a letter to Donald Evans, U.S. Secretary of Commerce, urging a speedy resolution to this dispute and attention to workers displaced by lumber imports.

Sen. Roush **moved** to have Ms. Murdo draft the letter.

Ms. Murdo said this fund was limited to 241 original petitioners, of which only three are lumber companies owned and operated in Montana. There are an additional three companies based in another state but operating in Montana that also are eligible for funds.

Rep. Mendenhall asked how these funds could be used. Sen. Anderson said the funds could be used at a beneficiary's discretion, such as to help the displaced workers employed by that company or to restructure the existing facility. Rep. Mendenhall suggested that perhaps the letter should ask Secretary Evans to reconsider the eligibility criteria for receiving the funds. Ms. Murdo said the criteria specifies that in order to receive funds, the requestor must have been an original petitioner and that could not be changed.

Sen. Mangan asked if the proposed letter was at the suggestion of the six companies involved. Sen. Anderson said he had asked Ms. Murdo to investigate the matter for him because he had hoped the money could be distributed to the states most affected by the trade dispute.

The motion to write a letter to U.S. Secretary of Commerce Donald Evans urging resolution of this matter passed unanimously. Rep. McKenney said he would work with Ms. Murdo to complete the draft letter.

George Harris, Department of Livestock, returned to the meeting with the West Nile Virus

information requested by Rep. Mendenhall in the morning meeting (Exhibit #10).

Mr. Harris also addressed a question asked in the morning meeting regarding meat inspection in Montana. Wholesale meat distributors must be licensed and inspected by DOL inspectors, whereas a company wishing to sell beef from a store-front operation on a retail level can do so with a county inspection.

Mr. Harris also reported that boxed beef coming into Montana is all federally inspected at the border.

Sen. Mangan asked how long the businesses on the inspection pending list have been waiting for inspection. Mr. Harris answered that some have been waiting for months but that he would have an exact report prepared for Sen. Mangan. Sen. Mangan asked if GTA grant funds would be an option for additional inspector funds. Mr. Harris said an additional state meat inspector for FY 2003 was funded under the GTA program and the State received matching federal funds. DOL received funding for one additional position from the 2003 Legislature for FY 2004 and 2005. The list indicates more state meat inspectors are needed but the DOL is operating under the presumption that the GTA funds will not be requested. DOL may request additional funding from the 2005 Legislature.

## **WORKER'S COMPENSATION ISSUES**

### **Nancy Butler, General Counsel, Montana State Fund**

Ms. Butler gave a status report on the SB 304 study. Ms. Butler said the study focuses on three primary areas of study that will culminate in a report to the 2005 Legislature:

- the role of the State Fund,
- the feasibility of the sale of the State Fund, and
- the creation of an assigned risk pool.

Ms. Butler also reported there are nine members on the committee. The committee held an organizational meeting in July of 2003 and conducted its first working meeting in September. The September meeting covered topics such as:

- an overview of the State Fund;
- the rate-making process;
- how to value the Montana State Fund;
- the role of the Legislative Audit Division in oversight of State Fund;
- competitive advantages and disadvantages of State Fund and private carriers; and
- information from the 2002 SB 19 study of restructuring the State Fund;

Ms. Butler informed the Committee that the next meeting will be November 7, 2003. The topic for the meeting will be assigned risk pools, and discussion will center on whether Montana is in need of one, how they function, and what the potential impact could be on Montana.

Ms. Butler said a website has been set up and has all relevant information posted. The website address is: [www.sb304.com](http://www.sb304.com).

**Jerry Keck, Administrator, Employment Relations Division, Department of Labor and Industry (DOLI)**

Mr. Keck reported on SB 270, which directed the DOLI to conduct a study of independent contractors in Montana. Mr. Keck reported that DOLI assembled the Committee members (Exhibit #11), and looked at definitions of what an independent contractor (IC) is at the first meeting that was held on October 22, 2003. Mr. Keck also reported the DOLI contracted with Hays Companies, a consulting group specializing in worker's compensation issues, to prepare a best practices study of the way in which other jurisdictions of the United States deal with independent contractors. Mr. Keck provided the Committee with a copy of the full report (Independent Contractor Best Practices Report - Exhibit #12). Mr. Keck also said comments and suggestions from the October meeting would be organized into a presentation of the full range of options available for consideration at the January meeting.

**Brandon Miller, Vice President, Hays Companies,** provided the Committee with a summarized version of the report (Montana Independent Contractor Best Practices Report - October 2003 - Exhibit #13). Mr. Miller concluded his presentation by discussing his recommendations and the steps needed to implement the recommendations.

Sen. Roush asked Mr. Keck if it was too early to identify needed changes. Mr. Keck said it was too early to identify a specific course of action; further information needed to be gathered and certain issues needed more study before any final recommendations could be made.

Rep. Mendenhall asked Mr. Miller if he had done an analysis to determine why there are so many independent contractors in Montana. Mr. Miller said he has identified three causes for this situation:

- the ease of Montana's application process,
- Montana's history of worker compensation culture and laws, and
- the types of businesses operating in Montana.

Rep. Mendenhall asked what will happen to the number of independent contractors if Montana adopts the recommendation to revise the application procedure. Mr. Miller said that he could not state it to be a certainty but predicted there would be a decrease in applications until the industry has digested the implications of the rule or statute changes.

**SJR 17 Worker's Compensation Simplification Study, Eddy McClure, Staff Attorney**

Ms. McClure reviewed the requirements of the SJR 17 Study and made the following comments:

- The statutes look clear on paper but constituents say they are not able to navigate the system or articulate the problems they are encountering.
- Since neither the staff nor this Committee deal with Worker's Compensation statutes on a daily basis, it will be difficult to fix something that is not clearly understood; hence the need for careful study and consideration.
- As directed by the Committee, meetings have been held with the individual groups of stakeholders in the industry:
  - ▶ those who administer the statutes,
  - ▶ those who work with the claimants, and
  - ▶ the claimants themselves.



- ▶ The purpose of the meetings was to identify areas in need of change.
- All stakeholders were asked to attend a joint meeting on September 29, 2003, to identify the changes they feel are needed and the rationale for their proposed changes.
- The stakeholders were also asked to verify that their changes would not impact, directly or indirectly, any statute relating to benefits because benefits were specifically excluded from the SJR 17 study.
- Sen. Cocchiarella is a claims adjustor in the private sector and has independently organized meetings with claims adjustors and insurers in Missoula to talk about this issue from their perspective.
- The goal is to use the information gathered to make three presentations to the Committee:
  - ▶ Worker's Compensation laws and policies identified to be in need of change,
  - ▶ the exemptions allowed in Montana, and
  - ▶ Occupational Disease: how it differs from Worker's Compensation, a discussion of litigation that has occurred, and the court decisions that have been issued as a result of the litigation.

Ms. McClure said by the May or June meetings, the Committee should have enough information to determine whether or not legislation is needed to remedy the situation and what course of action to use to accomplish the desired outcome.

Ms. McClure asked Mr. Keck to present the September 29, 2003, meeting information to the Committee and said the Committee was not expected to make a decision today based on the presentation but rather to make notes for use at a later date when it is decision-making time.

Mr. Keck distributed and discussed a detailed handout which listed the specific statutes in need of change, identified the areas of consensus between the groups, and identified areas where further study must be held before consensus can be reached (Exhibit #14).

Mr. Keck also brought the Committee's attention to a Montana Worker's Compensation Code Index prepared by Kim Stevens, Claims Adjustor, Intermountain Claims, Missoula, Montana (Exhibit #15). He said Mr. Stevens' index allows the user to reference by topic where to find the corresponding codes and rules relating to that topic. Mr. Keck said everyone involved thinks this idea should be expanded upon to clearly organize and cross-reference the statutes, the rules, and the significant court cases that relate to any particular issue or topic. Mr. Keck said DOLI would work to put an index on the DOLI website.

**Sen. Vicki Cocchiarella, SD 32, Missoula, Montana**, made the following comments and observations:

- In her experience in worker's compensation, she has found the issue of Independent Contractor to be a very complicated one and encouraged the Committee to take care when making its changes.
- Many claimants are confused over the many acronyms used in the Worker's Compensation statutes, making this a good place to start the clarification and simplification process.
- Legislators should keep "separation of powers" at the forefront of the process. She said the Judicial Branch has made and passed legislation through its court decisions and this is of grave concern to her. It is the duty of the legislators to provide their constituents

- with fair and workable laws.
- Sen. Cocchiarella agreed with Mr. Keck that the Worker's Compensation Code Index created by Kim Stevens is a very useful tool for working with the statutes.

**Dean Blackaby, Attorney, Helena, Montana,** said he represents injured workers in the Worker's Compensation system and asked to comment on Mr. Keck's document (Exhibit #14, page 6). He asked the Committee to be cognizant of the differences between the two codes that deal with benefit suspension (39-71-607) and benefit termination (39-71-1106) and said it is a significant distinction to make, especially from the claimant's point-of-view. Under the suspension statute, the burden is on the insurer to show that the claimant is non-compliant. Under the termination statute, it is the responsibility of the claimant/insured to prove that he is in compliance. Mr. Blackaby also stated that rehabilitation benefits statutes are restrictive and more freedom should be given to resolve reasonable disputes.

**Jerry Driscoll, AFL-CIO Representative,** commented on issues relating to Independent Contractors and stated:

- the existing Independent Contractor law is not being enforced, and
- changing the definition of Independent Contractor to be in accordance with the Supreme Court decision (Wild v. Fregein Construction and Montana State Compensation Insurance Fund, No. 02-198, 2003 MT115), would alleviate some of the problems.

**Larry Jones, Liberty Northwest Insurance,** provided testimony to the Committee summarizing the Liberty Northwest Claims Adjustors meeting held in Missoula (Exhibit #16). Mr. Jones briefly discussed each recommendation and urged the Committee to consider a broader reading of the charge of SJR 17.

Mr. Jones also addressed the topic of the recreational activity exception to employment and said the Supreme Court case of Connery v. Liberty Northwest, in which an employee was injured on the employer's premise while off-duty, is of great concern to the hospitality industry. Mr. Jones said the concept was broad in concept and in need of clarification.

**George Willet, Operator, Show Down Ski Hill**

Mr. Willet said he supported Mr. Jones' comments and said there is a need to redefine "performing a prescribed task on the job" to be more specific and clear. Mr. Willet said most employee accidents occur off the job, yet the employer usually ends up paying for it. He asked the Committee to consider adding additional language to make the statute less broad and less open to interpretation.

**Jacqueline Lenmark, American Insurance Association (AIA)**

Ms. Lenmark said the AIA wants the Committee to know it strongly supports the consensus process that has been put into motion by this study. She said Ms. McClure has facilitated unprecedented discussion amongst the stakeholders in this process in an organized and rational manner. Ms. Lenmark also complimented Mr. Keck by saying he has done an extraordinary job synthesizing the concerns of the various stakeholders, thus allowing the Committee to use this information in a methodical and organized way. She said the AIA strongly supports Sen. Cocchiarella's eloquent testimony regarding the separation of powers and the

public policy-setting obligations of the legislature.

Ms. Lenmark said while she would not speak to any of the details in Mr. Keck's handout she would suggest the specific questions brought up in today's meeting be added to pages 7 and 8 as items that need further discussion and evaluation.

Ms. Nancy Butler, State Fund, briefly stated she concurred with Ms. Lenmark's comments.

Sen. Roush asked if workers employed by a company that declares bankruptcy receive proper worker's compensation coverage. Mr. Keck, Ms. Lenmark, and Mr. Jones all agreed that Montana statutes provide for this type of situation to protect injured workers.

Rep. Mendenhall asked Mr. Keck if the Best Practices report (Exhibit #12) included an analysis of rates in other states. Mr. Keck answered other states' rates were not included in the study, only best practices on how to perform an exemption process. Rep. Mendenhall asked if the Committee would be able to find out what other states' exemptions are and why those exemptions were chosen. Mr. Keck said he could pursue that but that Montana does have an exemption list and as a part of that list, one of those exemptions is independent contractors. there are many more on the list as well.

Rep. McKenney asked Mr. Driscoll if he thought all of the stakeholders were being properly represented so far in this process. Mr. Driscoll said he thought there had been good cooperation so far and the few concerns he had would likely be addressed in future meetings.

## **PUBLIC COMMENT**

**Rep. Eve Franklin, Great Falls, HD 42**, said she was asking the Committee to take action, in its role of rule review, regarding the issue of Medical Assistants, as created in HB 321. Rep. Franklin said her concerns were related to the Board of Medical Examiners (BME) role in implementation of this law, and the flaws that she saw taking place in rule-making for this law (Exhibit #17).

### **Sami Butler, Registered Nurse, Montana Nurses Association (MNA)**

Ms. Butler said the MNA was very involved in this legislation and has grave concerns about the BME expansion of the rules from the original intent. She said there is a hearing scheduled for November 22, 2003, and said she would like to correct these problems prior to the hearing, rather than having to reverse rules adopted at the hearing. Ms. Butler said it would save both time and resources if the problem could be addressed in this manner and asked for the Committee's assistance.

Ms. McClure responded that until the proposed rules are received by Staff Attorneys Bart Campbell and herself, no action can be taken. She also said because the rule cannot be adopted without sufficiently addressing both the comments received at the hearing and comments from legislative staff, there would be adequate time to resolve this issue.

Rep. McKenney said Rep. Franklin was proper to bring this to the Committee's attention, that the

Chairman and staff will handle this issue before the next meeting. He also said if the matter is not resolved satisfactorily, the Committee has the authority to call the Board of Medical Examiners before it to explain its actions.

### **INSTRUCTIONS TO STAFF**

Sen. Mangan asked to revisit the issue of the DOL list of businesses waiting for a state meat inspector. He said it troubled him that these businesses are, in effect, being held hostage by the State of Montana. He said one of this Committee's duties is to promote economic development and this situation is quite contrary to that. He said rather than waiting for the 2005 legislature to remedy this situation, he would like to take action now to help them. He suggested the staff contact the businesses to see what their specific needs are and then assist the DOL in working with the budget office to resolve this matter.

Rep. McKenney suggested the staff contact the DOL regarding the businesses that have applied for state meat inspectors.

Rep. Keane said he wanted staff to be certain that the Committee wants direct feedback from these businesses and the DOL.

Rep. Keane asked for further discussion of the PNWER meeting scheduled for November and **moved** that the Committee write a letter to Legislative Council requesting funding for Sen. Roush to attend.

Rep. McKenney asked Sen. Roush how many delegates would be attending this meeting. Sen. Roush said by statute, there are four legislators appointed to this committee. He said that if any of the delegates wants to attend, they must pay their own way, since a committee appointment does not include travel funds.

After discussion by the members, the motion passed unanimously by voice vote. Rep. McKenney asked Rep. Keane to assist staff in drafting the letter to the Legislative Council.

Sen. Mangan stated the Worker's Compensation issue is not going to be as time consuming as originally thought and said the Committee has the time and resources to take on additional issues. He said venture capital is a huge issue and suggested the Committee make this a priority and work to prepare a venture capital bill for introduction in the 2005 session.

Rep. McKenney disagreed regarding the Worker's Compensation study saying it will take a significant amount of time but agreed that venture capital did warrant attention. He suggested the Committee wait to make a determination after the economic development issues were presented at the next day's meeting.

Rep. Keane said, in regard to the Worker's Compensation issue, it was very important to have unity and consensus before a bill is introduced in the legislative session or it would create controversy and would end up going nowhere. Rep. McKenney responded by saying he favored presenting the issue in three approaches:

- a non-controversial housekeeping bill;

- a non-controversial consensus bill; and
- a bill containing the contentious issues and with the Committee deciding whether to present it as a committee bill.

**RECESS UNTIL OCTOBER 24 MEETING**

Sen. Mangan **moved** to adjourn. The motion passed unanimously on a voice vote. The Committee adjourned at 4:10 p.m. and will reconvene at 8 a.m. on October 24, 2003.

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