

# ***Economic Affairs Interim Committee Work Plan for the 2013 - 2014 Interim***

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revised and adopted at the EAIC August 21, 2013, meeting

## **Summary**

This Work Plan for the 2013-2014 Economic Affairs Interim Committee (EAIC) contains an introduction regarding EAIC duties and a proposed schedule in which to accomplish those duties (see the Table on pp. 10-12). Additional sections provide details related to the statutory duties (pp. 2-9), outline plans for a required study on professional and occupational licensing boards and two other studies assigned by Legislative Council to the EAIC (p. 9), and describe additional duties and options (Appendix A) that EAIC members or staff have proposed pursuing.

Committee members outlined their goals for the interim, which included addressing the workers' compensation study, House Joint Resolution No. 25, looking at the calculations and costs of dealing with the Old Fund, and addressing licensing board issues such as fees and the sunset reviews required under House Bill No. 525 enacted in 2011. The revised Work Plan incorporates these and other recommendations for committee activities.

EAIC members, presented with a revised Work Plan for adoption at their second meeting, adopted this Work Plan with the addition of reviews of three licensing boards at the October 2013 meeting and a recommendation to later determine which remaining licensing boards are to be studied. The plan may be revised at any time, taking into consideration budget and timing.

## **I. *Introduction***

In line with the statutory duties of interim committees (detailed in the next section), the Economic Affairs Interim Committee (EAIC or Committee) has responsibility for:

- reviewing rules of certain executive agencies under the EAIC's purview (see page 2);
- monitoring certain executive agencies' programs and providing a preliminary review of those agencies' draft legislation; and
- studying and reporting to the next Legislature on any issues assigned to the EAIC by the Legislative Council.

The EAIC members also selected to hear reports on various subjects of interest, including some of the proposed topics in Appendix A.

The EAIC presiding officer also has the responsibility to name two EAIC members as liaisons to the State Fund and two EAIC members (one from each party and each legislative body), with

vice presiding officer concurrence, to the Rail Service Competition Council. Liaisons named to the State Fund are Rep. Tom Berry and Rep. Lea Whitford. Liaisons named to the Rail Service Competition Council are Sen. Bruce Tutvedt and Rep. Ryan Lynch.

### **Budget and Meeting Dates**

The EAIC budget for the 2013-2014 biennium is \$31,711, slightly more than the \$31,429 from the last interim. For the first meeting, the EAIC was able to tap money left from the last interim, which means the amount for the FY2014-FY2015 biennium is able to cover meetings and any other costs that the Committee determines important to the goals of the Committee.

Generally, the budget allows for 4 one-day meetings and 3 two-day meetings for a possible total of 7 to 10 meetings. The bulk of the budget is for members' travel and per diem costs for meetings but allows for additional expenditures, whether that be the use of remote meeting technologies, meetings out of Helena, or conferences or other meetings related to the EAIC's work.

The Committee agreed to 8 one-day meetings, with 7 funded under the FY2014-FY2015 biennium. The Committee voted to use money not expended for Committee meetings to send two committee members to the Labor-Management Advisory Council, which will be investigating workers' compensation issues similar to those before the Committee under House Joint Resolution No. 25. The liaisons named to the Labor-Management Advisory Council are Rep. Greg Hertz and Rep. Ryan Lynch.

The costs for two EAIC members to serve as liaisons to the Montana State Fund are separately identified in the Legislative Services Division budget. That amount is \$4,232, and liaisons submit their claims separately to the EAIC staff. Liaisons can count on attending approximately 5 Montana State Fund meetings a year. The remaining meetings for 2013 are Sept. 20 and Nov. 15. In 2014 the meetings most likely will be in February, May, and June.

The cost of the Rail Service Competition Council liaisons is covered by the Department of Transportation. In 2012 the Rail Service Competition Council met 6 times. In 2013 the Council's first meeting was in April.

The study resolutions require that interim committee work, including final reports, recommendations, and any proposals for legislation, be completed by Sept. 15, 2014. The proposed final date is Sept. 12, 2014.

For a list of meeting dates and topics, see Table 2 on pp. 10-12.

## **II. *Statutory Obligations and Review of Duties***

**5-5-215. Duties of interim committees.** (1) Each interim committee shall:

- (a) review administrative rules within its jurisdiction;
- (b) subject to 5-5-217(3), conduct interim studies as assigned;
- (c) monitor the operation of assigned executive branch agencies with specific attention to the following:
  - (i) identification of issues likely to require future legislative attention;

**Table 1: Agencies assigned to Economic Affairs Committee and Areas of Interest**

<b>Department of Agriculture</b> <ul style="list-style-type: none"> <li>• Agricultural Development Division</li> <li>• Agricultural Sciences Division</li> <li>• Central Services</li> <li>• State Grain Laboratory</li> </ul>	MT Wheat & Barley Cmte	Hail Insurance Board
	Noxious Weed related advisory councils	
	Alfalfa Seed Committee	Organic Advisory Committee
	Cherry Advisory Committee	Potato Advisory Committee
	Mint Committee	Pulse Crop Advisory Cmte
<b>Department of Commerce</b> <ul style="list-style-type: none"> <li>• Business Resources</li> <li>• Community Development</li> <li>• Director's Office</li> <li>• Energy Division</li> <li>• Housing Division</li> <li>• Montana Promotion Division (Office of Tourism/Film Office)</li> </ul>	Board of Housing	MT Facility Finance Authority
	Board of Investments	MT Heritage Commission
	Board of Research and Commercialization	Small Business Development Center Advisory Council
	Economic Development Advisory Council	State Tribal Economic Development Commission
	Coal Board	Tourism Advisory Council
	Hard-rock Mining Impact Board	Board of Horseracing as of 7/1/2013
<b>Department of Labor &amp; Industry</b> <ul style="list-style-type: none"> <li>• Business Standards Division</li> <li>• Centralized Services Division</li> <li>• Employment Relations Division</li> <li>• Unemployment Insurance Division</li> <li>• Workforce Services Division</li> <li>• Workers' Compensation Court</li> </ul>	Professional and Occupational Licensing Boards	
	Building Codes Bureau	Occupational Safety/Health
	Weights and Measures Lab	Apprenticeship Training
	Montana Human Rights Commission	Incumbent Worker Training Program
	Brd of Personnel Appeals	Foreign Labor Certification
	Board of Labor Appeals	MT State Employers Council
	Labor-Management Advisory Council	State Workforce Investment Board
<b>Department of Livestock</b> <ul style="list-style-type: none"> <li>• Animal Health Division</li> <li>• Brands Enforcement Division</li> <li>• Centralized Services Division</li> </ul>	Livestock Loss Reduction & Mitigation Board	Meat and Poultry Inspection Milk & Egg Inspection/Milk Control Bureau
		Diagnostic Laboratory
<b>State Auditor's Office</b> <ul style="list-style-type: none"> <li>• Insurance Division</li> <li>• Securities Division</li> </ul>	Insure Montana (program)	MT Comprehensive Health Assn. (attached nonprofit)
	Exchange Stakeholder Involvement Council	
<b>Gov's Office of Econ. Develop.</b>	Statutory duties	
<b>Division of Banking/Financial Institutions</b>	Statutory duties	
<b>Montana State Fund</b>	Statutory duties	

- (ii) opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and
  - (iii) experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action;
  - (d) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules; and
  - (e) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work.
- (2) Each interim committee shall prepare bills and resolutions that, in its opinion, the welfare of the state may require for presentation to the next regular session of the legislature.
- (3) The legislative services division shall keep accurate records of the activities and proceedings of each interim committee.

## **Duties in statute**

### **A. Rule Review**

Under 5-5-215, MCA, an interim committee "shall review administrative rules within its jurisdiction". EAIC legal staff typically reviews rulemaking notices from all the agencies that the EAIC monitors and provides information to the Committee on rules considered to be noncompliant with legislative intent. The EAIC may request that the legal staff provide a synopsis of all rules and not just those that are considered noncompliant. The EAIC also could request the Committee attorney to pay particular attention to rules affecting constituent concerns, if any. According to the Montana Administrative Procedure Act (MAPA), the committee charged with reviewing agency rules may:

- request agency rulemaking records for ensuring compliance with MAPA;
- submit recommendations regarding the adoption, amendment, or rejection of a rule;
- require that a hearing be conducted;
- participate in proceedings;
- review the conduct of administrative proceedings.

### **B. Program Monitoring**

Pursuant to 5-5-215, MCA, the Committee shall monitor the operation of assigned agencies with specific attention paid to:

- identifying issues likely to require future legislative attention;
- improving existing law; and
- seeking the input of citizens regarding the operation of agencies.

The EAIC monitors (see Table 1 for more detail) the:

- Department of Agriculture;

- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner;
- Governor's Office of Economic Development;
- Montana State Fund; and
- the Division of Banking and Financial Institutions

### C. Draft Legislation Review

Draft legislation review is intended both for an interim committee's suggested legislation and for legislation to be proposed by agencies monitored by the committee. When the interim committee is proposing its own legislation, it is listed under both "requester" and "requested by". A requestor must be a legislative entity. The "requested by" entity may be a state agency.

The requester role sometimes is seen by the public as the committee endorsing the bill, when in fact the requester is just enabling drafting of the legislation and is not taking a stand on the contents of the bill. However, an interim committee may choose not to request drafting of a particular bill requested by an agency, which means only that the agency has to find a legislator who will introduce the bill (and the committee then generates some perhaps unnecessary ill will). Early review by legislators also allows for outside suggestions that agencies may or may not take under consideration.

Two reasons for review of agency legislation by interim committees are:

- to provide early drafting for agencies, which presumably know in advance which policies they are seeking to amend, remove, or establish; and
- to improve the work flow so that staff can begin drafting legislation before elections and handle agency legislation before the onslaught of newly elected legislators' bill requests.

Because agencies are expected to have submitted their proposals to the Governor's Office by June in the year preceding the legislative session, interim legislative committees can begin as early as June to review the legislation. The EAIC often has reviewed agency legislation at its last meeting of the interim. According to Joint Rule 40-40(5)(a): "Unless requested by an individual member, a bill draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee." Some agencies provide drafts of their legislation. Others review only the concepts. If the EAIC wants to review actual drafts, the members should give early notice to each of the agencies.

### D. Maintain Adequate Records of Activities

Under 2-3-212, MCA, if an audio recording is designated as the official record, written records of meetings are also to be kept to provide assistance to the public in accessing the relevant portion of the meeting. Legislative Council has decided that the audio recording stands as the official record. Unless otherwise requested by the Committee, the written minutes will serve as a log or guideline to topics, the times that they were addressed, and the names of those who spoke on the subject. The audio recording serves as the official record.

As for other records of activities, staff relies on communication with EAIC members using both e-mails and letters. If an EAIC member prefers communication in only one form, then the staff will adjust to match preferences. Information will be sent to the EAIC members approximately 2 weeks prior to a meeting and may be sent in more than one batch. That information also will be posted to the Committee website, and legislators may refer constituents or interested parties to the website for information or to sign up for electronic notification of EAIC activities. The website is: [http://leg.mt.gov/css/Committees/Interim/2009\\_2010/Economic\\_Affairs/default.asp](http://leg.mt.gov/css/Committees/Interim/2009_2010/Economic_Affairs/default.asp) or simply <http://leg.mt.gov/eaic>.

**E. Additional statutory duties**

- Licensing Board or Program Review. As part of its monitoring duties related to the Department of Labor and Industry, to which professional and occupational licensing boards are administratively attached, the EAIC is responsible for deciding if any particular licensing board or program is not needed or if the financial solvency of the board or program is questionable. Under 2-8-404, MCA, the EAIC is required to notify the department if the Committee itself wants to review boards or programs for the purpose of sunseting them or combining them with another board. This process will be incorporated into the HB 525 study of boards but the EAIC also is responsible for addressing any immediate insolvency of a board not scheduled for review in this interim.
- Under HB 630 from the 2013 Session, the Departments of Agriculture, Livestock, and Public Health and Human Services are to assess Montana's food laws in light of the federal Food Safety Modernization Act as well as from the perspective of oversight of home or community kitchens. A conference on the subject, using at least \$9,000 in appropriated funds, also is required as is a report to the Economic Affairs Committee by May 15, 2014.
- As part of SB 223, requiring a termination plan for the Montana Comprehensive Health Association (MCHA), the State Auditor is to present the termination plan to the Economic Affairs Interim Committee. If the termination plan is developed before the committee's last meeting, the plan will be presented at that meeting.
- Under 22-3-1002, MCA, the EAIC is required to review the administrative fee negotiated between the Montana Heritage Preservation and Development Commission and the Department of Commerce.
- The creation of the Wood Product Industry Loan Program in the Department of Commerce included a requirement that the Department of Commerce report to the EAIC about the status of the distressed wood products industry loan account.
- The Rail Services Competition Council (RSCC) under 2-15-2511(3)(a), MCA, is to "report to any standing or interim legislative committee that is assigned to study or has oversight duties for rail service competition issues". Subsection (3)(b) says "The council shall report to the 2009 legislature on its activities and its progress in performing the duties required in subsection (2)", which included promoting rail service competition and developing a comprehensive and coordinated plan to increase rail service competition,

among other tasks. The biennial budget contains \$50,000 a year for the RSCC, which indicates there will be meetings in this biennium.

- Another statutory requirement, introduced by House Bill 142 from the 2011 session, is for each interim committee to review advisory councils and reports that must be provided to the legislature to determine if they are serving their purpose or no longer necessary. Last interim the Economic Affairs Committee reviewed and voted to retain the following Advisory Councils, which were created by statute and attached to agencies monitored by the Committee:
  - ▶ Tourism Advisory Council (Commerce) created under 2-15-1816, MCA
  - ▶ Economic Development Advisory Council (Commerce) created under 2-15-1820, MCA
  - ▶ Advisory Council on Continuing Education for Insurance Licensees (SAO) created under 33-17-1204, MCA
  - ▶ Advisory Council on Risk Management Activities (SAO) created under 33-22-520, MCA
  - ▶ Noxious Weed Management Advisory Council (Agriculture) created under 80-7-805, MCA
  - ▶ Montana Noxious Weed Seed Free Forage Advisory Council (Agriculture) created under 80-7-904, MCA
  - ▶ Organic Commodity Advisory Council (Agriculture) created under 80-11-601, MCA.

The following reports are required and also were reviewed in the 2011-2012 interim and voted upon with all recommended for retention. The Economic Affairs Committee either is specifically assigned to receive a report or the report is under an agency for which the EAIC is responsible:

- ▶ State Agency and County Weed District Biennial Noxious Weed Report (Agriculture), 7-22-2151, MCA;
- ▶ Montana Board of Investments Annual Report (Commerce), 17-5-1650, MCA;
- ▶ Apprenticeship and Training Program Biennial Report (Dept. of Labor and Industry), 39-6-101 and 5-11-210, MCA;
- ▶ Livestock Loss Reduction Report (to be made to Legislature and Board of Livestock), 2-15-3113, MCA;
- ▶ Distressed Wood Industry Report (Commerce), 90-1-503 and 5-11-210, MCA; and
- ▶ Montana State Fund financial report, including a statement of estimated liabilities as determined by an independent actuary, 39-71-2363(3), MCA. Two other reports in which the Economic Affairs Committee might be interested, as part of its duties to monitor Montana State Fund, are the reports by the legislative auditor of an annual examination and rate review, which must be done no sooner than October 1 after the end of the fiscal year (39-71-2362, MCA), and a copy of the approved budget (39-71-2363(2), MCA).

The Economic Affairs Committee in the 2011-2012 interim decided not to review any of the following boards or committees. These boards, committees, or other entities may contain an advisory function but are not specifically termed advisory councils or are not created statutorily:

- ▶ Montana Noxious Weed Summit Advisory Council (Agriculture), created under executive order
- ▶ Montana Agriculture Development Council (Agriculture) 2-15-3015, 90-9-103, MCA;

- ▶ Montana Alfalfa Seed Committee (Agriculture) 2-15-3004, MCA;
- ▶ Montana Cherry Advisory Committee (Agriculture) created under 80-11-510, MCA (a statute allowing department general creation authority);
- ▶ Mint Committee created under 2-15-3006, MCA (Agriculture);
- ▶ Montana Potato Advisory Committee (Agriculture);
- ▶ Montana Pulse Crop Advisory Committee (Agriculture);
- ▶ Montana Wheat and Barley Committee (Agriculture) created under 2-15-3002, MCA;
- ▶ Board of Hail Insurance (Agriculture) 2-15-3003, MCA, and Title 80, ch. 2, part 2;
- ▶ State Workforce Investment Board (Dept. of Labor and Industry);
- ▶ Board of Personnel Appeals (Dept. of Labor and Industry);
- ▶ Board of Labor Appeals (Dept. of Labor and Industry);
- ▶ Board of Housing (Commerce) created under 2-15-1814, MCA;
- ▶ Coal Board (Commerce) created under 2-15-1821, MCA;
- ▶ Board of Research and Commercialization (Commerce) created under 2-15-1819, MCA;
- ▶ Hard-rock Mining Impact Board (Commerce) created under 2-15-1822, MCA;
- ▶ State Tribal Economic Development Commission (Commerce) created under 90-1-131, MCA;
- ▶ SBDC (Small Business Development Center) Advisory Council (Commerce);
- ▶ Montana Heritage Preservation and Development Commission (Commerce) created under 22-3-1002, MCA;
- ▶ Montana Facility Finance Authority (Commerce) created under 2-15-1815, MCA;
- ▶ Board of Investments (Commerce) created under 2-15-1808, MCA; and
- ▶ Montana Council on Developmental Disabilities (Commerce) created under 2-15-1869, MCA.

**STAFF RECOMMENDATION:** The Committee might want to do a HB 142 review of some committees that are advisory but not strictly named as such, especially if there was not a review in the last interim of those that are statutorily created. For example, some of the advisory councils for agriculture consist primarily of all farmers engaged in that particular crop (the Mint Committee). There may no longer be a need for some of these statutorily created committees and the purpose of HB 142 was to determine whether there was a need or not.

### III. **Study Activities**

The Economic Affairs Committee has three studies in this interim: a study of professional and occupational boards that began in the last interim at the direction of House Bill No. 525 from the 2011 session and two studies assigned by the Legislative Council on May 16, 2013: House Joint Resolution No. 25 and Senate Joint Resolution No. 24.

- **House Bill No. 525** -- This study is intended to determine whether professional and occupational licensing boards are necessary and meet a public purpose. The study provides for a review of one-half of the 33 licensing boards currently in existence; 16 were reviewed in 2011-2012 and 17 boards are to be reviewed this interim.

The review has included an overview of each board, its functions, its licensing fees, the number of licensees, the number of complaints, and the costs. In addition, the 2011-2012 Economic Affairs Committee authorized a survey to determine licensee and public

attitudes toward the licensing boards. The survey provided an opportunity for comment on the boards. In the first interim the Committee heard from members of each of the licensing boards and also provided an opportunity for public comment on the boards before voting as to whether the board ought to be retained or not. All boards were retained. The temporary statute directing the study, 37-1-142, MCA, called for the oldest boards to be reviewed first.

In the 2011-2012 interim the Committee reviewed two to four specific boards at each meeting, regardless of whether there were concerns about the board. At the end of the interim the Committee suggested that board members be required to attend only if a cursory review indicated a concern about the board. Although the review gave licensees and others an opportunity to complain about the board or regulations of their profession, 37-1-142 primarily provides review criteria and calls for an up-or-down vote on whether to retain a board.

In this interim the Committee was provided with a decision matrix as well as basic information provided about the boards to help determine which boards ought to be reviewed. For the October 2013 meeting, the Committee directed that boards representing persons typically hired by hospitals undergo specific scrutiny on whether the state should remain involved in licensure. The Committee also agreed to review boards that had financial difficulties. Finally, the Committee directed that further board review would be determined later based on Committee members' review of the basic board information and responses to questions asked of licensing boards (See Appendix B for 37-1-142--the temporary statute enacted by HB 525--and the questions asked of licensing boards. Also see the separate HB 525 study plan).

- **HJR 25** -- This resolution requests a study of 7 specific topics related to workers' compensation:
  - subrogation;
  - the appointment of the workers' compensation judge;
  - the use of utilization and treatment guidelines;
  - the use of forms to help employers know better when an injured worker may be returning to work;
  - the impact on employees of benefit changes from 2011 legislation;
  - actions to improve the safety climate in Montana; and
  - whether the Montana State Fund should remain as a state agency or the Montana workers' compensation system be revised to a self-insured, private insurance model with Montana State Fund allowed to become independent.

The Committee chose to carry out each item outlined in HJR 25, with particular attention on the structure of Montana State Fund. However, the Committee expressed little interest in creating an independent, stand-alone private entity. The Committee also asked that the structural review include an analysis of how to calculate the value of Old Fund claims.

- **SJR 24** -- This resolution is to look at how military training can be substituted for some licensing or certification requirements either for professional or occupational licensing or for some types of other civilian jobs. The Committee noted that the professional or occupational licensing boards already are required under SB 183 and HB 317 to determine what military training is equivalent to required licensure training and suggested that a white paper provide the information compiled by the licensing boards and include

whatever other licenses related to civilian jobs may be able to acknowledge military training and experience. After a discussion of the white paper presentation, the Committee will determine if additional presentations on SJR 24 are necessary.

**IV. Other Interim Activities**

The EAIC's opportunity to "accumulate, compile, analyze, and furnish information" related to its assigned duties and related to existing or prospective relevant legislation means that guest speakers may be scheduled to provide information on relevant topics. Members may propose investigation of emerging issues at any time during the interim. Agencies also may request that the Committee study an emerging issue that has resulted from court decisions, federal actions, or another cause. Emerging issues are not necessarily member issues, and may be raised by an agency or by staff. But to be on the agenda, the issue must be requested by the presiding officer or the other EAIC members. Staff resources are limited, so additions in a work plan must be accompanied by deletions to maintain balance.

**V. Member Issues**

EAIC members have an opportunity to put more or less emphasis on agriculture and ranching, tourism and commerce of all types, and the service industries as they address policy concerns related to economic activity, workforce issues, and the general business environment in Montana. EAIC members have recommended various topics for possible meeting consideration (see Appendix A).

**VI. Staff Recommendations for Additional Activities**

If additional issues arise, staff will inform members for their discussion and determination regarding further background information or action.

**VII. Tentative Interim Calendar**

The following tentative schedule has been proposed:

**Table 2: Meeting Dates and Proposed Topics and Tasks**

Date	Phase	Research Tasks/Policy Issues
June 25, 2013	Organizational   Agency Monitoring   Rule Review	*Elect Officers *Appoint liaisons to State Fund, Rail Services Competition Council *Decide work plan (Determine involvement in rule review, extent of agency monitoring, meeting times) Reports related to assigned studies from: --Dept. of Labor and Industry, MT State Fund (HJR 25) -- Business Services Division (HB 525, SJR 24, SB 183, and HB 317) Update: Governor's Office of Economic Development

August 21, 2013	<p>Work Plan</p> <p>Agency Monitoring</p> <p>Studies</p> <p>Rule Review</p> <p>Member Issues</p>	<p>Adoption HB 142 - Advisory Council/Committee reviews?</p> <p>Department of Labor and Industry</p> <p>HJR 25 - Overview of workers' compensation in MT -- Actions to improve Montana's safety climate</p> <p>HB 525 - Adopt study plan and which boards to analyze in more depth, Review budgeting concerns</p> <p>--Health Insurance Exchanges - Insurer Viewpoint --Weights/Measures Fee Increase Rule -- Noxious Weed Seed Free Forage Rule</p>
October 22, 2013	<p>Studies</p> <p>Agency Monitoring</p> <p>Rule Review</p> <p>Member Issues</p>	<p>HJR 25 -- Review Montana State Fund structure, finances including Old Fund reviews and review by State Auditor of Montana State Fund financial statements</p> <p>HB 525 -Board of Clinical Laboratory Science Practitioners -Board of Radiologic Technologists -Board of Respiratory Care Practitioners</p> <p>Montana State Fund State Auditor's Office</p> <p>-Health Insurance Exchanges - Navigators/Brokers/MHA</p>
January 27-28, 2014	<p>Studies</p> <p>Rule Review</p> <p>Agency Monitoring</p> <p>Member Issues</p>	<p>HJR 25 -- Subrogation in workers' compensation -- Montana State Fund restructuring</p> <p>HB 525 -- Board of Hearing Aid Dispensers -- Board of Funeral Services -- Board of Priv. Alternative Adolescent Residential or Outdoor Programs</p> <p>Agriculture Livestock</p> <p>--Cross-border transfers of horses -- cutting red tape --Diagnostic Lab at Montana State University-Bozeman --Milk Pricing Update</p>
March 27, 2014	<p>Studies</p> <p>Agency Monitoring</p> <p>Rule Review</p> <p>Member Issues</p>	<p>HJR 25 - Utilization and treatment guidelines update - Report from workers' compensation judge and report on other options for appointment of judge</p> <p>HB 525 -- Boards TBD</p> <p>SJR 24 -- Presentation of white paper on military training</p> <p>Commerce Board of Investments reports</p> <p>-Update on economic development and use of tax credits</p>

May 8, 2014	Studies  Agency Monitoring  Rule Review  Member Issues	HJR 25 -- Use of forms for stay-at-work, return-to-work -- Workers' Compensation Benefits HB 525 - Boards TBD  Division of Banking/Financial Institutions Report re: Food Modernization Act updates (Ag, Live.) Report by State Auditor's Office of health exchange debut
July 15, 2014	Studies  Agency Monitoring  Rule Review  Member Issues	HJR 25 -- Followup to Montana State Fund structure -- Followup to subrogation  Legislation Review for agencies
September 12, 2014	Studies  Agency Monitoring   Legislation Review (if needed)  Member Issues  Rule Review	WRAP UP -- HJR 25 (work comp) and HB 525 (boards)  Standard Reports from: -The MT Heritage Preservation & Development Commission on negotiated indirect admin rate -Distressed Wood Products Industry (Dept of Com.) -Livestock Loss Reduction & Mitigation Board

**VIII. Web Resources**

Information about the Committee is available through the legislative website, under Committees, Interim, Economic Affairs. At that site, staff will post information regarding Committee activities, minutes, agendas, study reports, and relevant information. The site also provides links to the websites of agencies for which the Committee is responsible.

Legislative Services:

<http://leg.mt.gov/eaic>.

**IX. Matrix for Prioritizing the Focus of Meetings**

The following table provides a brief description of the Committee's involvement over the course of the interim. The columns provide members with options for allocating their time. It is anticipated that choosing the most involvement for each activity will seriously tax the EAIC's time, staff resources, and budget. The table is intended to be flexible yet help the Committee recognize that only a limited amount of Committee time is available for activities that are not mandated.

## EAIC Matrix for Setting Priorities for Interim Committee Activities

ACTIVITY	Most Involvement	Moderate Involvement	Minimal Involvement
<p><i>RULE REVIEW</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>Request written or oral reports including analysis by legal staff at each meeting on all proposed rules or adoption notices for each agency monitored.</li> <li>Request copies of rules from agencies for legislators' personal review.</li> <li>Seek public comment on rules of concern.</li> </ul>	<ul style="list-style-type: none"> <li>Request written, one-sentence description prior to Committee meetings of all rules (from this meeting on).</li> <li>Review in Committee only topics that:               <ol style="list-style-type: none"> <li>legislators flag as important or of concern; or</li> <li>a member of the Committee asks be placed on the EAIC agenda.</li> </ol> </li> </ul> <p>xx</p>	<ul style="list-style-type: none"> <li>Hear information only on issues that Committee legal staff considers to be out of compliance with statutes or legislative intent.</li> </ul>
<p><i>DRAFT LEGISLATION REVIEW</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>Request reports from agencies on legislative proposals submitted in early 2013 to the Office of Budget and Program Planning. Include panel presentations to familiarize Committee with issues.</li> </ul>	<ul style="list-style-type: none"> <li>Provide time at June and September 2014 meetings, one for initial concept review and the other for follow-up briefings for complex legislation.</li> </ul>	<ul style="list-style-type: none"> <li>Overview of concepts at final or July meeting on each item of legislation.</li> </ul> <p>xx</p>
<p><i>AGENCY MONITORING</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>Each agency division would give an initial overview presentation.</li> <li>Any agency with further statutory reporting requirements to give an oral report to the EAIC.</li> <li>EAIC members specify follow-up reports on program specifics.</li> </ul>	<p>Basic involvement needed:</p> <ul style="list-style-type: none"> <li>Each agency head would provide a brief overview of activities.</li> <li>Any agency with further statutory reporting requirement would give an oral report.</li> </ul> <p>xx</p>	
<p><i>HB 142 REVIEWS - A review of the necessity of advisory councils, etc., or reports linked to agencies that EAIC monitors.</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>Review the 35 advisory councils/ reports and advisory groups of all types. Some would just be monitored, others would include a HB 142 review with public comment followed by a vote by the Committee on whether to retain.</li> </ul>	<ul style="list-style-type: none"> <li>Require presentations and review of the 13 advisory councils and reports previously reviewed, with public comment and a vote of the Committee on each along with up to 4 other advisory committees from the list on p. 8.</li> </ul>	<ul style="list-style-type: none"> <li>Based on a briefing paper for each of the 13 statutory advisory councils and reports, review for necessity. Public comment and vote of Committee.</li> </ul> <p>xx</p>

ACTIVITY	Most Involvement	Moderate Involvement	Minimal Involvement
<p><i>MONITORING IMPORTANT (Emerging) ACTIVITIES (may be based on member issues -- see below)</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>• Outline up to 5 topics chosen at the first meeting to be addressed at subsequent meetings.</li> <li>• Include staff-prepared "white papers" on each topic.</li> <li>• Discussion by EAIC</li> </ul>	<ul style="list-style-type: none"> <li>▶ Outline up to 3 topics chosen at the first meeting to be addressed at subsequent meetings.</li> <li>▶ Staff briefing papers on topics of interest.</li> <li>▶ Discussion by EAIC</li> </ul>	<ul style="list-style-type: none"> <li>▶ Topics limited to those presented by interested persons who ask to be on agenda.</li> <li>▶ Copies of relevant reports provided to Committee.</li> <li>▶ No staff briefing or "white papers".</li> </ul> <p>xx</p>
<p><i>MEMBER ISSUES (see also Emerging Issues above)</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>▶ Each meeting would have 1 member issue on the agenda, with presentation by an identified expert (6 or 7 topics in total).</li> <li>▶ Provide a white paper on designated issues.</li> <li>▶ Draft related legislation.</li> </ul>	<ul style="list-style-type: none"> <li>▶ 4 or 5 member issues would be addressed, with a presentation by an identified expert</li> <li>▶ Staff to prepare briefing papers or draft legislation as issues arise.</li> </ul> <p>xx</p>	<ul style="list-style-type: none"> <li>▶ Address no more than 2 member issues as time allows, with staff providing copies of relevant outside reports to EAIC.</li> <li>▶ No staff briefing or white papers.</li> <li>▶ 1 or 2 presentations, if any.</li> </ul>
<p><i>ASSIGNED STUDY :</i></p> <p><b>HB 525</b> - reviewing licensing boards (all options include minimum activity level)</p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>▶ Review each licensing board at one meeting and add subsequent meetings for any concerns.</li> <li>▶ Stakeholder comment at each meeting.</li> <li>▶ Survey for concerns of nonlicensees/licensees.</li> <li>▶ Vote by EAIC whether to retain or request sunset legislation.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Determine which licensing boards to be reviewed further and have stakeholder comment for the rest at one meeting and presentations for boards of concerns at separate meetings.</li> <li>▶ Survey for concerns of licensees/nonlicensees</li> <li>▶ Vote by EAIC on whether to retain or request sunset legislation.</li> </ul> <p>xx</p>	
<p><i>ASSIGNED STUDY :</i></p> <p><b>HJR 25</b> - on workers' compensation</p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>▶ Full Committee would get presentations on 1 to 3 topics of HJR 25 at each meeting.</li> </ul> <p>xx</p>	<ul style="list-style-type: none"> <li>▶ A subcommittee would get presentations on 2 to 3 of the HJR 25 topics at each meeting.</li> <li>▶ This would require reducing the number of Committee meetings to 5 one-day meetings, with the subcommittee having four one-day meetings.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Assign 2 to 4 liaisons to the Labor-Management Advisory Council and have them report back on overlapping topics from HJR 25.</li> <li>▶ Get presentations for the full Committee on topics not presented to LMAC.</li> </ul>

<b>ACTIVITY</b>	<b>Most Involvement</b>	<b>Moderate Involvement</b>	<b>Minimal Involvement</b>
<p><i>ASSIGNED STUDY:</i>  <b>SJR 24</b> - reviewing licensing or certification requirements of civilian jobs for which military experience and training may substitute</p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>▶ Presentations by military regarding experience and training that overlap with civilian jobs.</li> <li>▶ Panel discussions by licensing board members regarding pros and cons of using military experience and training in lieu of other educational criteria.</li> <li>▶ Report from licensing boards on what military training or experience is being accepted in lieu of other training or educational requirements.</li> <li>▶ An examination by staff of state licensing or certification requirements that may be met by military experience and training</li> </ul>	<ul style="list-style-type: none"> <li>▶ Presentations by military regarding experience and training that overlap with civilian jobs.</li> <li>▶ Report from licensing boards on what military training or experience is being accepted in lieu of other training or educational requirements.</li> <li>▶ An examination by staff of state licensing or certification requirements that may be met by military experience and training.</li> </ul>	<ul style="list-style-type: none"> <li>▶ A white paper from staff regarding state licensing or certification requirements that may be met by military experience and training that would include reports from licensing boards on what military training or experience is being accepted in lieu of other training or educational requirements.</li> <li>▶ Possible followup presentations.</li> </ul> <p>xx</p>

In calculating the EAIC's allocation of its meeting time, the following table may be helpful.

<b>Responsibilities</b>	<b>Time Needed</b>	<b>Total Meeting Hours</b>
Administrative & statutory duties -- Rule review -- Agency monitoring -- Agency legislation review	--10 minutes for rule review at ea meeting. --Up to 1 hour for each agency monitored --3 hours for all agencies	12 to 14 hours (depending on rule review contention and level of monitoring)
-- HB 142 reviews	--20 minutes for each (approximately)	depends on how many chosen for review
HB 525 Review of licensing boards	will vary depending on work plan choices	
HJR 25 - workers' compensation study	1 to 3 hours each for 7 topics	7 to 21 hours
SJR 24 - military training equivalency study	1 to 2 hours	1 to 2 hours
Member issues	Depends on work plan	
Total		8 meetings planned (~ 55 hours)

## Appendix A:

### Member Issues and Possible Emerging Issues

The following topics include suggestions from EAIC members (and staff) for issues that might be addressed in the 2011-2012 interim in addition to regular Committee activities and assigned studies. Options include presentations, issue briefs, and nonstaff reports. Those with a date or even a year listed are among those the EAIC members indicated an interest in at their July 2011 meeting.

Topic	Possible activity	Date
Health Insurance Exchanges	<ul style="list-style-type: none"> <li>▶ Ready or not, the federally facilitated marketplaces are to be up and running in October 2013. Insurers selling on the exchange to review expectations.</li> <li>▶ How is the Commissioner of Insurance implementing the navigator licensing and education program not only for navigators but for insurers and other "assisters"?</li> </ul>	August 2013  Part of monitoring
Banking, especially changes to banks and credit unions in Montana from changes brought by the Dodd-Frank Act	<ul style="list-style-type: none"> <li>▶ Review impacts from Dodd-Frank mortgage changes (20% down, revisions to what is required for refinancing, bank requirements to retain portion of mortgage) on Montana's housing construction and home sales, including for first-time homebuyer program. Also impact on banks regarding re-engineering of U.S. (and MT) loan system. What kind of loans will be available in Montana.</li> <li>▶ Review whether new capitalization requirements hurt local banks or credit unions.</li> </ul>	Part of monitoring
Immigration Reform and impacts on businesses in Montana	<ul style="list-style-type: none"> <li>▶ If Congress enacts immigration reform, what impacts will there be on Montana employers and employees or on state law?</li> </ul>	no
Farm Bill and changes to farm insurance programs -- impact on Montana	<ul style="list-style-type: none"> <li>▶ If Congress enacts a new farm bill, what impacts will there be on Montana farms and farm insurance programs, conservation set-aside programs in this state?</li> </ul>	no
Economic Development and the use of tax credits	<ul style="list-style-type: none"> <li>▶ Are tax credits useful for economic development and necessary if other states compete for business with them?</li> </ul>	Part of monitoring
Unemployment issues	<ul style="list-style-type: none"> <li>▶ Is the discrepancy between Eastern Montana and Western Montana unemployment rates a matter for review/concern?</li> </ul>	no
Health Insurance Competition	<ul style="list-style-type: none"> <li>▶ Examine the changes to the market with Blue Cross Blue Shield of Montana selling to Health Care Service Corp. and Pacific Source's entry into the market as well as Cigna's decision not to field policies on the federally facilitated marketplace in Montana.</li> </ul>	Include with exchange review above

Topic	Possible activity	Date
Insure Montana	<ul style="list-style-type: none"> <li>▶ Examine viability of the program and whether the program could morph into a SHOP exchange for small businesses, similar to what Utah is considering doing.</li> </ul>	no
Monitoring of medical assistance programs	<ul style="list-style-type: none"> <li>▶ Follow up on licensing boards' medical assistance programs and implementation by the four boards participating in the programs: Board of Medical Examiners, Board of Dentistry, Board of Nursing, Board of Pharmacy. Are other boards participating and under what authority?</li> </ul>	Initially no. But issues arose.
Professional and Occupational Board Licensing Oversight (beyond HB 525)	<ul style="list-style-type: none"> <li>▶ Review licensing boards' progress in implementing military training reciprocity for educational experience.</li> <li>▶ Determine which boards need additional oversight or monitoring based on budget, numbers of complaints, other?</li> </ul>	Part of monitoring
Monitor Medical Malpractice Insurance	<ul style="list-style-type: none"> <li>▶ Include information from Montana Medical Legal Panel filings/lawsuits and information from the State Auditor's Office on growth or decrease in insurance providers for medmal insurance.</li> </ul>	no
Workplace safety	<ul style="list-style-type: none"> <li>▶ Follow up on the work of WorkSafeMT and reports from OSHA regarding private sector contacts whether for citations or recommended changes.</li> </ul>	Part of HJR 25
Workforce development	<ul style="list-style-type: none"> <li>▶ Reports on: <ul style="list-style-type: none"> <li>• incumbent worker training</li> <li>• foreign labor certification program</li> <li>• activities aimed at improving ways to meet job demands in the Bakken</li> </ul> </li> </ul>	Part of monitoring
Investments	<ul style="list-style-type: none"> <li>▶ Reports from the Board of Investments, including in-state investments.</li> </ul>	Yes
Consumer protection	<ul style="list-style-type: none"> <li>▶ Report from the Attorney General's office on complaints related to consumer protection and areas that might crossover with agencies monitored by the EAIC (e.g. steering of automotive repair work or hearing aid complaints).</li> </ul>	no
Brucellosis and the Designated Surveillance Area	<ul style="list-style-type: none"> <li>▶ Follow up on work of the 2009-2010 EAIC regarding the Board of Livestock and the Department of Livestock actions related to brucellosis in the areas near Yellowstone National Park.</li> </ul>	no
Meat processing system	<ul style="list-style-type: none"> <li>▶ Review the number of state and federal meat inspectors available for processing plants in Montana to determine if competition is affected by limited numbers.</li> </ul>	no
Other?	<ul style="list-style-type: none"> <li>▶ Cross-border transfers of horses and cutting red tape</li> </ul>	January

## Appendix B:

**37-1-142. (Temporary) Review of licensing boards -- termination.** (1) (a) The interim committee responsible for monitoring professional and occupational licensing boards shall in each interim review one-half of the licensing boards to determine whether the boards remain necessary for a public purpose and meet the criteria in subsection (2). A board that does not meet the criteria may be referred to the next legislature to be terminated on June 30 following the legislative session.

(b) The review in the first interim after May 5, 2011, must start with the oldest established boards. The review in the second interim after May 5, 2011, must include the remaining boards. This review process must be repeated in the subsequent two interims.

(2) The criteria to be used to determine if a board meets a public purpose includes information describing whether:

(a) the unregulated practice of the occupation or profession creates a direct, immediate hazard to the public health, safety, or welfare;

(b) the scope of practice is readily identifiable and distinguishable from the scope of practice of other professions and occupations;

(c) the occupation or profession requires a specialized skill or training for which nationally recognized standards of education and training exist;

(d) qualifications for licensure are justified;

(e) a public benefit is provided by licensure;

(f) licensure significantly increases the cost of service to the public; and

(g) public support exists for licensure.

(3) After a presentation and public comment during the review before the interim committee, the interim committee shall report to the legislature convening in the next odd-numbered year which boards, if any, fail to meet a majority of the criteria in subsection (2) and may recommend termination. The recommendation also must include information from the department regarding the board's ability to remain solvent or achieve fiscal solvency as provided in 37-1-101. (Terminates Dec. 31, 2014, sec. 1, ch. 36, L. 2013.)

### **The Economic Affairs Committee asks that Board Representatives Answer the Following Questions during the Board Review under House Bill No. 525:**

- ▶ What is the public health, safety or welfare rationale for licensing and regulating your profession/occupation?
- ▶ If your profession/occupation were not licensed, what public protection would be lost?
- ▶ If a license is necessary (for health, safety, or welfare), does the profession/occupation need a board for oversight? If yes, please explain why and describe the purpose of creating a board.
- ▶ Does your board deal with unlicensed practice issues? If yes, what types of issues?
- ▶ People who are not licensed but are qualified in an occupation or profession may feel that a licensing board is preventing them from earning a living -- what is your response?
- ▶ How does your board monitor bias among board members toward a particular licensee, an applicant, or a respondent (to unlicensed practice)? How does your board monitor bias toward a particular profession/occupation, if more than one profession or occupation is licensed by the board?
- ▶ Does the profession or occupation have one or more associations that could provide oversight without the need for a licensing board? Why not use the association as the oversight body?

- ▶ Is a licensing board needed in order for the practitioner to bill to receive insurance (for example, health insurance)? If so, is there an alternate method for billing that may be recognized rather than having a license or being regulated by a licensing board?
- ▶ What are the benefits of a board being part of the licensing and discipline process instead of the department handling one or both?
- ▶ Is there an optimum ratio between licensees, board size, or public representation?
- ▶ If a board's purpose includes protecting public welfare, would that consumer protection be handled better by the Attorney General's office than by a board? (In other words, is there a value in a disinterested third party? If yes, why? If not, why not?) Who should be responsible for monitoring fraud within the profession or occupation?
- ▶ If boards have overlapping scopes of practice, should there be a third-party to determine whether there is intrusion into the other's practices? If so, who should be the judge? If not, why not? Should each be allowed to operate on the other's turf without repercussions?
- ▶ Should any board have the ability to limit use of certain terminology to only a licensee? (see for example under the Board of Psychologists,, the exemption from definitions:  
**37-17-104. Exemptions.** (1) Except as provided in subsection (2), this chapter does not prevent:  
 (a) qualified members of other professions, such as physicians, social workers, lawyers, pastoral counselors, professional counselors licensed under Title 37, chapter 23, or educators, from doing work of a psychological nature consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "psychology", "psychologist", "psychological", or "psychologic"....  
 (2) Those qualified members of other professions described in subsection (1)(a) may indicate and hold themselves out as performing psychological testing, evaluation, and assessment, as described in 37-17-102(4)(b), provided that they are qualified to administer the test and make the evaluation or assessment.