

# ***Economic Affairs Interim Committee Draft Work Plan for the 2005 - 2006 Interim***

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## **Summary**

This Draft Work Plan for the 2005-2006 Economic Affairs Interim Committee (EAIC) contains an introduction regarding EAIC duties and a proposed schedule in which to accomplish those duties.

The subsequent sections of the Draft Work Plan provide detail for the statutory duties, outline plans for two studies assigned by Legislative Council to the EAIC, and describe additional options that EAIC members might choose to pursue. A matrix suggests options on how to apportion the work load over the next 15 months. The appendix includes draft work plans for both studies.

EAIC members may choose to revise the Draft Work Plan at any time, taking into consideration budgetary and staff resources.

## **I. Introduction**

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

- reviewing rules of certain executive agencies under the Committee's purview<sup>1</sup>;
- monitoring of certain executive agencies' programs and 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. Legislative Council assigned two studies to the EAIC for this interim: SJR 35, regarding professional licensing boards, and SJR 38, regarding identity theft.

The EAIC members also may choose to study or hear reports on various subjects of interest to the members. A list of sample topics is included in the appendix.

In addition to the traditional duties assigned to interim committees, the 2005 Legislature approved new duties that were signed into law requiring:

- the EAIC presiding officer to name two EAIC members as liaisons to the State Fund, pursuant to Senate Bill 61, and two EAIC members (one from each party), with vice presiding officer concurrence, to the Rail Service Competition Council, pursuant to House Bill 769;

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<sup>1</sup>Executive agencies assigned by 5-5-223, MCA, to the Economic Affairs Committee are: the Department of Agriculture, the Department of Commerce, the Department of Labor and Industry, the Department of Livestock, the State Auditor and Insurance Commissioner, and the Governor's Office of Economic Development. Although the State Fund is administratively assigned to the Department of Administration under 2-15-1019, MCA, a Memorandum of Agreement was established during the 1999-2000 interim between the Economic Affairs Interim Committee's predecessor, the Business and Labor Interim Committee, and the State Administration, Public Retirement Systems, and Veterans' Affairs Interim Committee. The agreement was for the Business and Labor Interim Committee to monitor State Fund, in part because the Business and Labor Committee had been assigned an interim study dealing with State Fund. In the 2001-2002 and 2003-2004 interims the Economic Affairs Interim Committee continued to include the State Fund within its monitoring activities. Staff for the State Administration and Veterans' Affairs Interim Committee and the Economic Affairs Interim Committee suggest a similar transfer arrangement for the 2005-2006 interim.

- scheduling of quarterly progress reports by the Montana Capital Investment Board, once the board begins operations, pursuant to Senate Bill 133;
- scheduling of a report by September 15, 2006, regarding recommendations from the Board for Alternative Schools for legislation, pursuant to House Bill 628; and
- a report every 6 months, after December 2005, from the Department of Commerce regarding the status of the grants and program implementation of the worker training program and Indian country economic development program, as noted in House Bill 2.<sup>2</sup>

The proposed schedule, operating within budget restrictions, is for an organizational meeting in June, funded under the FY2005 budget, and up to six meetings under the FY 2006-07 budget:

<u>General Meeting Topics</u>	<u>Proposed Date</u>
Organizational Meeting	June 24, 2005 (Friday)
Agency Monitoring/SJR 35 Reports	September 9, 2005 (Friday)
Agency Monitoring, SJR 35 & 38 Reports	November 4, 2005 (Friday)
SJR 35 & 38 Reports, Agency Monitoring	February 10, 2006 (Friday)
SJR 35 Legislation Review, SJR 38 Reports	May 12, 2006 (Friday)
Agency Monitoring & Legislation Review	July 14, 2006 (Friday)
Final Reports/Legislation Review	September 11-12, 2006 (Monday and Tuesday)

Given the requirement for the EAIC budget to cover the costs for two members as liaisons to the State Fund, the EAIC may need to reduce the number of its meetings to cover the salary, travel and per diem of members attending approximately 2 State Fund meetings in 2005 and 5 State Fund meetings in 2006.

The study resolutions require that interim committee work, including final reports, recommendations and any proposals for legislation, be completed by September 15, 2006.

## 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;
  - (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.

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<sup>2</sup>Governor Brian Schweitzer struck the Department of Commerce reporting language from House Bill 2, and that action now is the subject of a lawsuit as to its constitutionality. Given that the validity of the language is uncertain and that the Department of Commerce is among those entities monitored by the EAIC, the work plan includes reference to the reporting with a note regarding its questionable validity, both from the governor's veto and from the questionable inclusion of substantive reporting language in House Bill 2.

- (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 specific to the Economic Affairs Interim Committee**

**A. Rule Review**

Under 5-5-215, MCA, an interim committee "shall review administrative rules within its jurisdiction." As a basic, EAIC legal staff in the past has reviewed the agency rulemaking notices and provided information on rules considered to be noncompliant with legislative intent. Also, the Committee has responded to constituent concerns about rules by requesting representatives of various sides to comment at a committee hearing. 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.

**Action item:** EAIC members can set their level of involvement for reviewing agency rules. In carrying out the SJR 35 study of professional licensing boards, the EAIC might consider being more involved in rulemaking issues, depending on the importance the EAIC wants to place on board rulemaking. Among the options are:

<b><i>Most Involved</i></b>	<b><i>Moderately Involved</i></b>	<b><i>Minimally Involved</i></b>
<ul style="list-style-type: none"> <li>• Request a written or oral report by legal staff at each meeting regarding all proposed rules and adoption notices for each agency monitored by legal staff for the Committee; or</li> <li>• Request copies of rules from agencies for legislators' personal review.</li> <li>• Seek public comment on rules of legislative concern.</li> </ul>	Request oral summary reports at each meeting on topics: <ul style="list-style-type: none"> <li>• that legislators have flagged as important or of concern; or</li> <li>• that a member of the public has requested be placed on the Committee agenda.</li> </ul>	Request information only on issues that Committee legal staff considers to be out of compliance with statutes or legislative intent.

**B. Program Monitoring**

Pursuant to 5-5-215, MCA (Duties of Interim Committees), 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 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
- State Fund (pending agreement with the State Administration and Veterans' Affairs Interim Committee -- see footnote 1).

**Action item:** In past interims, the agencies typically have provided an overview report to the EAIC. Agencies involved in a study resolution have spent more time with the EAIC than agencies not involved in a study resolution. The work plan devotes parts of three meetings to agency overviews, with agency monitoring possible at each meeting and review of agency legislation at two meetings (see below). The following approaches for agency monitoring range from a presentation with follow-up reports to information only on specific activities, if any:

Most Involved	Moderately Involved	Minimally Involved
<ul style="list-style-type: none"> <li>• Each agency would give a 30-45 minute presentation at one meeting.</li> <li>• Any agency with further reporting requirements in statute would provide an oral report to the EAIC.</li> <li>• EAIC members would specify follow-up reports on program specifics.</li> </ul>	<ul style="list-style-type: none"> <li>• Each agency would provide a 20-minute presentation.</li> <li>• Any agency with reporting requirements in statute would provide an oral report to the EAIC.</li> </ul>	<ul style="list-style-type: none"> <li>• Each agency would provide a brief overview in a mailing to EAIC members, who could designate subjects on which they would like a further report.</li> <li>• Any agency with further reporting requirements in statute would provide an oral report to the EAIC.</li> </ul>

### C. Draft Legislation Review

Draft legislation review is intended for both the interim committee's suggested legislation and for legislation to be proposed by agencies monitored by the Committee. The 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 then review the legislation, 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.

The 2003-04 Economic Affairs Interim Committee handled the following agency bill requests:

Department of Agriculture	2 (2 bills became law)
Department of Commerce	4 (2 bills became law, 1 draft canceled)
Department of Labor and Industry	10 (9 bills became law, 1 draft canceled)
Department of Livestock	0
State Auditor and Insurance Commissioner	15 (10 bills became law, 2 drafts canceled)
Governor's Office	0

State Fund<sup>3</sup>

Total:  $\frac{1 \text{ (1 bill became law)}}{32 \text{ (24 bills became law, 4 drafts were canceled, 4 bills died in the process)}}$

### III. *Study Activities*

The Legislative Council on May 16, 2005, assigned Senate Joint Resolution No. 35, a study of professional licensing boards, and Senate Joint Resolution No. 38, a study of identity theft issues, to the Economic Affairs Interim Committee. Both resolutions were sponsored by Senator Vicki Cocchiarella and requested by the Senate Business, Labor, and Economic Affairs Committee, which Senator Cocchiarella chaired.

Staff recommends that the EAIC study SJR 35 issues in the first part of the interim, with the EAIC providing policy direction followed by discussion and input from interested parties, including board members, licensees, applicants, Department of Labor and Industry staff involved with the boards, and people who are interested in forming a board for their area of specialization. Three meetings devoted to SJR 35 would allow indepth discussions of this study. Some overlap in meetings will occur as the EAIC takes up SJR 38, where the key work of the study will involve stakeholders that include consumers, the business community, attorneys, consumer advocates, the financial industry, information technology specialists, and government personnel responsible for data gathering and safekeeping. Much of the SJR 38 study will involve reviews of legislation in other states and at the federal level. This work can be taking place in the early part of the interim and then brought to the EAIC for discussions in 3 meetings in the latter half of the interim. By scheduling the EAIC work on SJR 38 in the latter half of the interim, the EAIC will be able to determine which laws already have been enacted elsewhere and which laws are on a fast-track toward passage elsewhere, including in Congress. Please see the appendix for a study plan for each study.

**SJR 35** -- The EAIC will perform a key, early role in determining the policy direction for the professional and licensing boards study and then will hear from stakeholders regarding how to reflect these policy approaches in statute or refine statutes that apply to boards. SJR 35 follows a limited scope performance audit of the professional and licensing boards in the 2003-2004 interim as well as an administrative reorganization that began with the 2001 Legislature transferring statutory authority for the boards to the Department of Labor and Industry from the Department of Commerce.

**SJR 38** -- The EAIC will hear first from stakeholders about the identity theft issues of most concern and then determine how best to coordinate Montana laws with laws being developed elsewhere. The 2003 Legislature approved an Identity Theft Passport for use by victims of identity theft, and the 2005 Legislature further clarified the use of the Identity Theft Passport and passed HB 732 that contained additional measures aimed at preventing identity theft. This study will look at issues not covered by HB 732 as finally approved, including further efforts to prevent identity theft as related to direct marketing, disposal of records, the maintenance of public records that may contain personal private information, and issues related to victim restitution. The study will include reviews of federal legislation and other states' legislation related to identity theft and determine how best to coordinate Montana law accordingly.

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<sup>3</sup>See footnote 1. The State Fund reviewed two bill drafts with the Economic Affairs Interim Committee but only presented one formally to Legislative Services as a bill draft request.

#### **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. The EAIC staff, in consultation with EAIC members, has compiled a list of topics that the EAIC might explore more fully. Given a limited EAIC budget, guest speakers probably could not be reimbursed. See the appendix for the list of possible topics.

Legislation signed into law in 2005 and impacting EAIC activities includes:

- SB 61, which requires the EAIC presiding officer to name two EAIC members as liaisons to the State Fund. The intent of the legislation, in part, is to improve familiarity with the State Fund. Staff recommends the two EAIC liaisons occasionally report to the EAIC on issues raised at State Fund meetings.
- HB 769, which requires the EAIC presiding officer, with vice presiding officer concurrence, appoint two EAIC members (one from each party), to the Rail Service Competition Council. HB 769 is effective July 1, 2005. Staff recommends that appointees report to the EAIC by the end of the interim on any activities by the Rail Service Competition Council.
- SB 133, which requires the Montana Capital Investment Board, once the board begins operations, to report quarterly when the legislature is not in session to the EAIC regarding the board's progress in implementing the Montana Equity Capital Investment Act and the purposes of the act. SB 133 takes effect July 1, 2005. Staff recommends appropriate follow-up reports for this interim and EAIC consideration of amending the quarterly reporting requirement to instead require annual reports to the EAIC (once after the legislature meets and once the following year).
- HB 628, which requires a report by a new Board for Alternative Schools regarding the Board's recommendations, if any, for legislation to be proposed to the 60th Legislature.
- HB 2, which as passed by the legislature (in a segment stricken by the governor) sought a report every 6 months, after December 2005, from the Department of Commerce to the EAIC regarding the status of grants and program implementation of the worker training program and the Indian country economic development program. The EAIC may want to notify the Department of Commerce of follow-up interest in these programs.

The EAIC also may want to follow up on implementation of the following legislation requested by the previous EAIC interim committee, including:

- SB 8 and HB 126, revising workers' compensation laws in accordance with recommendations made under the Senate Joint Resolution 17 study to simplify workers' compensation laws; and
- SB 108, the Independent Contractor bill.

The EAIC covers a broad swath of Montana interests from laborers on the farm and in other industries to venture capitalists and their representatives in the chambers of commerce. Economic development provided a major theme for the 2003-2004 interim. This interim will feature consumer protection in terms of a public health and safety rationale for professional licensing boards and all those potentially affected by identity theft -- businesses as well as consumers.

#### **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. Member-proposed activities may be addressed as meeting time allows. A list of possible topics is available in the appendix.

#### **VI. *Staff Recommendations for Additional Activities***

The EAIC will have a busy schedule with two committees that both involve stakeholders. If additional issues arise, staff will inform members for their discussion and determination regarding further background information or action.

#### **VII. *Tentative Interim Calendar***

In addition to an organizational meeting, staff recommends that the EAIC meet a minimum of five more times and possibly six times during the interim. The following schedule allows three meetings for each study. Adopting a calendar allows members, staff, and interested parties to plan ahead.

June 24, 2005  
September 9, 2005  
November 4, 2005  
February 10, 2006  
May 12, 2006  
July 14, 2006  
September 11-12, 2006

If the EAIC members want a meeting outside of Helena, budget restrictions indicate that the committee would have to have one less meeting. Meetings outside of Helena require additional resources and logistical demands to ensure adequate space and notice to the public.

#### **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/css/default.asp>

#### **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. As an estimate, the table is intended to be flexible, providing a visual approach to time allocation.

<b>ACTIVITY</b>	<b>Most Involvement</b>	<b>Moderate Involvement</b>	<b>Minimal Involvement</b>
<i>RULE REVIEW</i>  <i>Chosen option</i>	--Request a written or oral report by legal staff at each meeting regarding all proposed rules and adoption notices for each agency assigned to the EAIC; or -- Request copies of rules from each agency for legislators' review. --Schedule public comment on topics of legislative concern.	Request oral summary reports at each meeting on topics that: -- legislators have flagged as important or of concern; or -- a member of the committee has requested to be placed on the EAIC agenda.	Request information only on issues that EAIC legal staff considers to be out of compliance with statutes or legislative intent.
<i>AGENCY MONITORING</i>  <i>Chosen option</i>	--Each agency would give a 30-45 minute presentation at one meeting. --Any agency with further reporting requirements in statute would provide an oral report to the EAIC. --EAIC members would specify follow-up reports on program specifics.	--Each agency would provide a 20-minute presentation. --Any agency with reporting requirements in statute would provide an oral report to the EAIC.	--Each agency would provide a brief overview in a mailing to EAIC members, who could designate subjects on which they would like a further report. --Any agency with further reporting requirements in statute would provide an oral report to the EAIC.
<i>DRAFT LEGISLATION REVIEW</i>  <i>Chosen option</i>	Work throughout the interim with agencies on potential legislative proposals, using presentations to help members become familiar with issues.	Provide time at two meetings for initial concept review. The second meeting would allow for follow-up briefings and comments if an agency requests complex legislation.	No formal review process developed; overview of concepts on each piece of legislation presented.
<i>ASSIGNED STUDY - SJR 35</i>  <i>Chosen option</i>	--Full Committee participation to develop policies. --Stakeholders would meet and make suggestions on how to implement policies, with reports on separate components at 3 meetings and get Committee direction. --Committee would review recommendations for necessary legislation.	--Full Committee participation to develop policies. --Working group of stakeholders to develop options for presentation at one meeting. --Committee to choose among options for legislation, if any.	--Full Committee participation to develop policies. --Stakeholder group would meet, make suggestions and recommend legislation, if any, on how to implement policies. --Committee would provide final say on legislation.
<i>ASSIGNED STUDY - SJR 38</i>  <i>Chosen option</i>	--Panel presentations to full Committee at 3 meetings. --Stakeholders would meet and make suggestions in 3 stages for draft legislation. --Committee would review suggestions, seek additional public comment, and request legislation, if any.	--Overall panel presentation at one meeting. --Staff would work with stakeholders on legislative options to be presented at second meeting. --Committee would review options, seek additional comments at third meeting, and request bill drafts, if any.	--Staff would provide overall background report and work with stakeholders to develop legislation for Committee review. --Committee would review report and legislation.

<b>ACTIVITY</b>	<b>Most Involvement</b>	<b>Moderate Involvement</b>	<b>Minimal Involvement</b>
<p><i>MONITORING IMPORTANT ACTIVITIES</i></p> <p><i>Chosen option</i></p>	<p>--Outline up to 5 topics chosen at the first meeting to be addressed at subsequent meetings.  --Include staff-prepared "white papers" on each topic.  --Discussion by Committee</p>	<p>--Outline up to 3 topics chosen at the first meeting to be addressed at subsequent meetings.  --Staff prepares briefing papers on topics of interest.  --Discussion by Committee.</p>	<p>--Topics limited to those presented by interested persons who ask to be on agenda.  --Copies of relevant reports provided to Committee. No staff briefing or "white" papers.</p>
<p><i>MEMBER ISSUES</i></p> <p><i>Chosen option</i></p>	<p>--Identify member issues at the first meeting. Request staff to arrange presentations and develop "white paper" on the issues.  --Develop related legislation.</p>	<p>--Instruct staff to research issues and prepare briefing papers or letters on the Committee's behalf as issues arise.</p>	<p>--Address member issues as time allows, with staff providing copies of relevant reports to Committee. No staff briefing or "white" papers.</p>
<p><i>STAFF Recommendations</i></p> <p><i>Chosen option</i></p>	<p>Incorporate ongoing issues into regular schedule after discussion with presiding officer.</p>	<p>Provide background information in packets.</p>	<p>Make information available if time permits.</p>