

*Final Report of the
2013-2014 Economic
Affairs Interim
Committee*

September 2014

FEE-FINANCED GOVERNMENT:

Issues Raised by Licensing Boards,
Other Agencies Before the 2013-
2014 Economic Affairs Interim
Committee

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Abstract:

The 8-member Economic Affairs Interim Committee (EAIC) looked at a variety of issues related to industry of all kinds during the 2013-2014 interim. Members spent many hours hearing about budget-related components of government entities that interact with such industries as agriculture, livestock, filmmaking, insurance, and financial services.

Learning the concerns and constraints on professional and occupational licensing boards took many hours of the EAIC's time, with solutions difficult to come by for boards that are having financial problems.

Committee member issues took the EAIC into areas of study that many had probably not considered before they began service in the Legislature. These areas included discussions of when Grade A pasteurized milk has to be sold or discarded, when horses have to have brand inspections, when tax credits carry an economic stimulative effect, and when insurers are served well through sharing of loss data on workers' compensation claims.

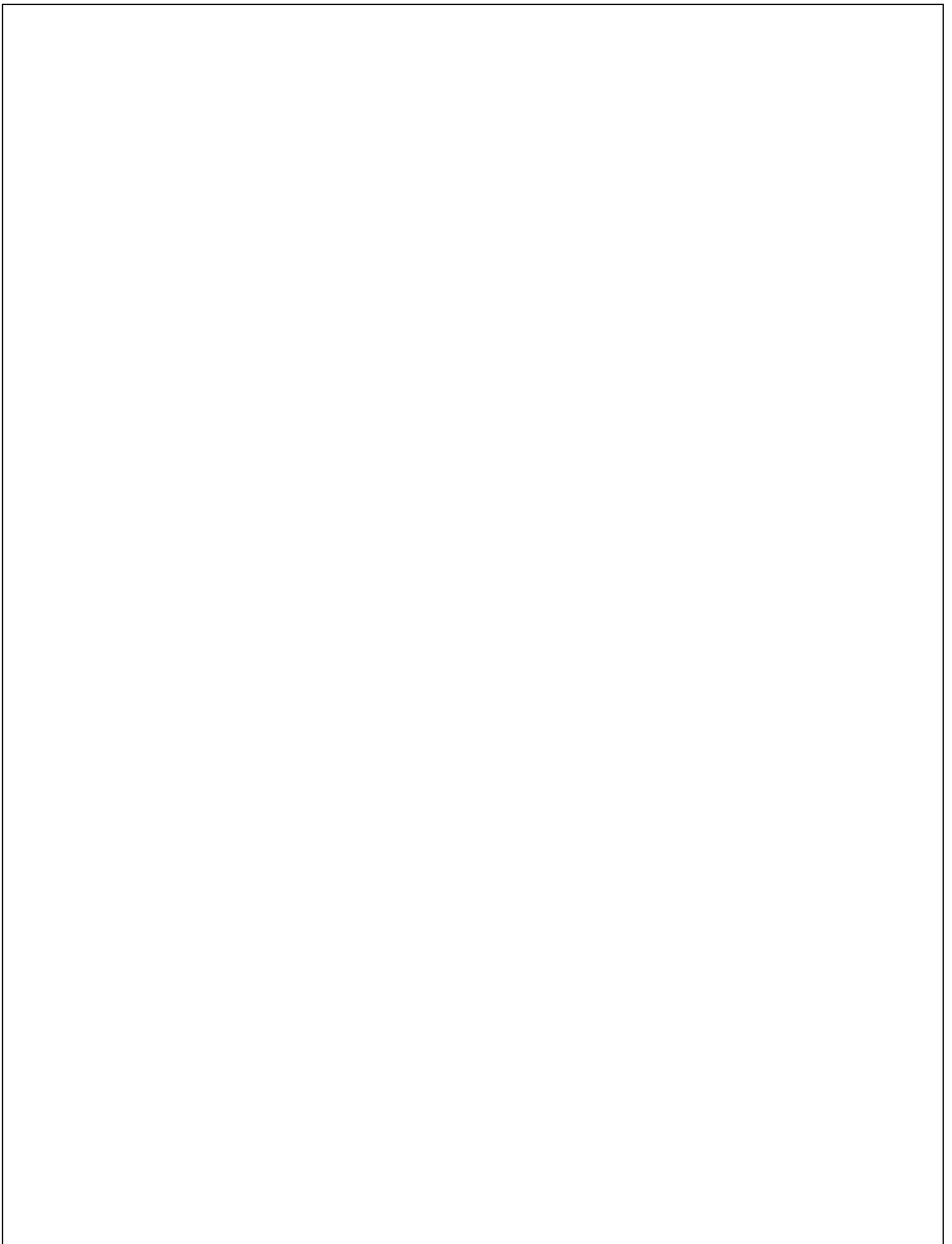
Perhaps the most time during the interim was spent dissecting and debating whether efficiencies, a level playing field, and better advance notice of potential solvency melt-downs would be acquired if Montana's guaranteed market for workers' compensation were regulated by the state's Insurance Commissioner. The Montana State Fund discussions interspersed with other workers' compensation issues, like subrogation and the choice of physicians for treatment of work comp injuries, as the EAIC reviewed various impacts of a major workers' compensation bill in 2011, House Bill No. 334, along with other workers' compensation topics not considered in that bill.

Finally, the EAIC monitored progress on a new statutory requirement that state professional and occupational licensing boards implement measures to accept military training as equivalent to certain nonmilitary training requirements.

Proposed Findings:

The Economic Affairs Interim Committee determined over the June 2013 to September 2014 period that:

- all of the professional and occupational licensing boards presented for review in 2013-2014 appeared to fulfill the requirements of protecting public health, welfare, and safety and, to that effect, ought to remain in existence;
- raw honey ought to be considered a raw agricultural product for which a license is unnecessary for sales at farmers' markets;
- loss-run insurance data ought to be available on a limited basis so employers who want to compare quotes on insurance are getting information relevant to their business's claims history;
- other ...



Committee Members

Before the close of each legislative session, the House and Senate leadership appoint lawmakers to interim committees. The members of the Economic Affairs Interim Committee [EAIC], like most other interim committees, serve one 20-month term. Members who are reelected to the Legislature, subject to overall term limits and if appointed, may serve again on an interim committee. This information is included to comply with the law in 2-15-155, MCA.

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Overview of EAIC Tasks

As a committee charged with monitoring diverse aspects of business, industry, and employment, the Economic Affairs Interim Committee or EAIC has a varied portfolio. In the 2013-2014 interim, as a result of House Bill No. 41 (recommended by the previous EAIC) the EAIC added monitoring of the Division of Banking and Financial Institutions to its duties.¹ This was, in part, because the EAIC's standing committee counterparts of the House Business and Labor Committee and the Senate Business, Labor, and Economic Affairs Committee usually hear banking and finance-related bills. Adding monitoring of the Division of Banking and Financial Institutions to the EAIC portfolio gave more continuity as banking and finance bills began being implemented.

All agencies monitored by the EAIC, as provided in 5-5-223, MCA, are:

- ✓ the Department of Agriculture;
- ✓ the Department of Commerce;
- ✓ the Department of Labor and Industry;
- ✓ the Department of Livestock;
- ✓ the State Auditor's Office (the Commissioner of Securities and Insurance);
- ✓ the Governor's Office of Economic Development;
- ✓ the State Compensation Insurance Fund provided for in 39-71-2313, MCA, (known as Montana State Fund or just State Fund) and the State Fund's Board of Directors; and
- ✓ the Division of Banking and Financial Institutions provided for in 32-1-211, MCA.

Tasks

An interim committee is required under 5-5-215, MCA, to monitor the operations of assigned agencies with attention to issues that may require future legislative action and attention to ways to improve existing law or citizen interactions with the agencies.

The committee also is to conduct interim studies as assigned by Legislative Council. In the 2013-2014 interim the EAIC had two studies:

- House Joint Resolution No. 25 on workers' compensation issues; and
- SJR 24 regarding ways to substitute military education for various work-related or licensing requirements.

In addition, interim committees are to review administrative rules of assigned agencies and any advisory councils or legislatively required reports to determine if they continue to be needed. An interim committee also may gather information related to existing or prospective legislation “as it determines,

¹Prior to 2013, the State Administration and Veterans' Affairs Committee monitored the Division of Banking and Financial Institutions as part of its monitoring of the Department of Administration.

on its own initiative, to be pertinent to the adequate completion of its work". For short-hand purposes, this task is called "member issues".

Indirect Interim Theme: Fee-Financed Government

A "theme" that threaded throughout the EAIC's 2013-2014 interim involved financing of government services, primarily from the perspective of fees charged by licensing boards and the per capita fee used by the Department of Livestock to fund many of its operations. The concept also underscored the EAIC's request for the Department of Labor and Industry to work more closely with fuel dispensers and others who pay fees to have their fuel meters inspected.

Components of Fee-Based Costs -- Key to understanding fee-based costs are terms like "appropriation authority" and "fees commensurate with costs", plus the question of whether fees can feasibly be charged that are sufficient to run programs. Regarding the latter issue a related question is: at what point does an increase in fees lead to noncompliance?

Appropriation authority stems from decisions made by the Legislature based on a biennial budget. The budget identifies funding sources and states that "x" amount of authority to spend is available from one fund and "y" amount of authority is available from another fund. For licensing boards, all of the money may be from a special revenue fund because one premise behind the creation of licensing boards traditionally has been that members of a profession are willing to charge themselves, through licensing fees, for the cost of regulating their occupation. Thus, the state general fund bears no cost for creating a licensing board.

In turn, although the licensing boards are "administratively attached" to the Department of Labor and Industry, the Department receives no general fund money for administering those licensing boards. All of the departmental and division costs are part of indirect charges that the Department is authorized to recover from the licensing boards. There is a difference of opinion about the proportion of indirect costs – whether that amount is 23% of costs or 41%. But helpful in understanding the process by which the Department develops costs is that the Department tries to avoid cross-subsidization among boards because of this self-pay form of regulation. Thus, the Department can only charge "fees commensurate with costs". Questions that arose in various EAIC meetings related to how the Department develops the costs of each board and assigns those costs to the boards. While the Department has developed an accountable process for allocating costs, there appears to be little ability of boards to challenge department choices of costs that are allocated across all boards. These allocated costs may, for example, be related to a new computer system, creation of new management structures, or office renovations. The issue is relevant primarily because all the boards are "administratively attached", which means under 2-15-121, MCA, that the "agency" or "board" submits its budgetary requests "through the

Helpful in understanding the process by which the Department of Labor and Industry develops costs is that the Department tries to avoid cross-subsidization among boards because of this self-pay form of regulation.

department” but is subject to the department’s requirement to “direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the agency.”¹

Some of the boards, along with a licensing program for boxers, have been reluctant to pass along the full cost of service through their licensing fees. Some of these boards’ members argued that they had very little control over the costs assigned by the Department. For example, were highly paid people assigned to do certain tasks that people with lower salaries could do, a question raised regarding the Athletics program where a manager ended up going out-of-town to oversee a boxing match. Second-guessing by boards and by the EAIC was at times frustrating for all concerned, yet the oversight provided slight input to a budgeting process that otherwise has few checks and balances. During the interim the Department provided detailed information and sought to help the EAIC understand where funding issues needed examination and where they were part of the necessary costs of doing business. The EAIC reviewed expense allocations of certain financially troubled boards and the boxing program as the EAIC members sought to equate the services delivered with the costs of services. For the most part, the EAIC urged boards to work with the Department to resolve financing issues.

Concerns about noncompliance with licensing was part of the discussion at the July 2014 EAIC meeting. The Department of Labor and Industry was asked to work with the Department of Public Health and Human Services to determine what would be involved if the regulation of residential and outdoor

programs for troubled youth were transferred from the Board of Private Alternative Adolescent Residential Outdoor Programs to the Department of Public Health and Human Services, thus removing self-regulation through a board. The request in part was because of financial concerns about the Board’s operations over time (see Table at right). As of May 2014, the Board had 12 licensees, almost all of them housing troubled teenagers primarily from out-of-state. The fiscal note accompanying House Bill No. 628 in 2005, the legislation that created the PAARP Board, assumed 29 facilities would be licensed at an annual cost of between \$21,000 and \$22,000 for the board. The Table shows actual revenues and expenditures as reported in the Governor’s Report on licensing boards for various years.

PAARP Board		
Revenues, Expenditures		
	Revenues	Expenditures
FY 2008	\$23,627	\$47,331
FY 2009	\$58,365	\$59,009
FY 2010	\$123,011	\$85,238
FY 2011*	\$94,890	\$85,238

*Latest information from Governor’s Report

The Governor’s Report on licensing boards indicates there were never more than 15 licenses issued and no inspections in any year, although board minutes indicate that the reason for no inspections was related to a choice by the board to inspect once every 3 years. In exchange for licensees being able to say they were “state-licensed”, there appears to have been minimal regulation. In part this was because the PAARP Board apparently wanted minimal regulation, but under 37-1-101, MCA, the Department is also allowed to withhold all services except those related to license-renewal if a board has insufficient funds to meet its costs. Those costs include the indirect costs levied by the Department even if a board is not receiving specific services other than licensing, because the board and Department staff still get paid and rent and other indirect costs still are apportioned.

¹ See section (2-15-121(2)(a) and (b), MCA.

One effort by the PAARP Board that involved legal costs was to target a facility that was not licensed but that appeared to fit the requirements of regulated facilities. As part of litigation involving the Ranch for Kids out of Eureka a court determined that the facility did not have a religious exemption. The school remains unlicensed at this point.

More complexities -- Further adding to the complexity of fee-financed government are two conditions that state laws define:

- how to account for the fees. The licensing board discussions included whether the administratively attached entities ought to be classified in the state budget as enterprise funds instead of state special revenue accounts, both of which are defined in 17-2-102, MCA.

Although either type of fund might be used for licensing boards, there are reasons for and against either option. The Department of Labor and Industry had argued for enterprise funding for the licensing boards, particularly because this approach would not limit those boards with sufficient cash on hand from carrying out their programs. Now they must have not only sufficient cash but sufficient appropriation authority. An enterprise-funded entity does not have appropriation authority nor legislative review, unless the legislature specifically requires a review.

A Department of Administration accounting expert advised the EAIC at its July meeting during a discussion of licensing board funding that general accounting standards call for limiting the number of funds in government. The implication was that creating 34 enterprise funds corresponding to each licensing board might not be limiting the number of funds.² Having separate accounts within a fund, however, did not upset the number of funds.

- the statutory requirement, under 17-2-108, MCA, to spend nongeneral

fund money before general fund money. This is a problem for agencies that may want to transfer money among accounts if the reason for the transfer is to spend the general fund money rather than the special revenue money. While transfers of appropriation authority are allowed within a division or between divisions, the purpose of the transfer should not be simply to allow the general fund money to be spent earlier. This may or may not be an issue as far as the Department of Livestock is concerned. Livestock typically has a mix of funding. For the Veterinary Diagnostic Laboratory, in particular, funding comes from the general fund, per capita fees, and charges for testing. So if the Department of Livestock seeks to move per capita fee

Fund Types as defined in 17-2-102, MCA:

- 1) Governmental Fund
 - a) General Fund
 - b) Special Revenue Funds, generally classified as state special revenue accounts or state federal revenue accounts
 - c) Other (capital projects, debt service, etc.)
- 2) Proprietary Fund
 - a) Enterprise Fund
 - b) Internal Service Fund
- 3) Fiduciary Fund
 - a) Private Purpose Trust Fund
 - b) Investment Trust Fund
 - c) Pension/Employee Benefit Trust Fund
 - d) Agency Fund
- 4) Higher Education Funds

² For more information on the Department of Labor and Industry's proposal along with pros and cons, see the July 2014 EAIC meeting information.

appropriation authority out of the Veterinary Diagnostic Laboratory to the Brand Enforcement Division, legislators may want to know not just what is happening with the Veterinary Diagnostic Lab's budget but with the Brand Enforcement Division budget as well, in part because the Veterinary Diagnostic Lab gets general fund money, whereas Brands Enforcement gets zero to less than \$3,000 in general fund money.³

Policy Committee Dealing with Budget Issues -- The arcane realm of state budgeting is not one that often crops up in a nonbudgetary legislative committee, but in the case of both the licensing boards and the Department of Livestock, budgeting issues arose because of consternation about ongoing funding. That's why this report has included information related to fee-financed government, particularly from the perspective of licensing boards, the Department of Livestock, and other agencies as appropriate.

Fees charged for a service is how the private sector operates, but when fees are the funding mechanism for government, the following questions are helpful:

- Is government needed in the equation at all?
- Is there a public purpose behind government involvement?
- Is the public benefit greater than the private, industry benefit?
- Is there an argument for including funding from the general fund, which means using taxes and other revenue from all the people who benefit from regulation of the industry?
- If a public benefit exists but the private, industry benefit is arguably greater, then where is the balance for public interest and a self-regulating industry getting the "arm of the law" behind the industry's ability to charge and collect fees?

To illustrate some of these questions, it is worthwhile to look again at licensing boards, the Department of Livestock monitoring, and the rule regarding fees for fuel dispensing meter inspections, all issues that came before the EAIC in the 2013-2014 interim.

For licensing boards, the underlying reason to exist (answering the first and second questions above) is that the public health, safety, or welfare benefits from the licensing of a professional. This was a question asked of licensees and the general public in a survey related to licensing boards under the House Bill No. 525 study from the 2011 Legislature, temporarily codified in 37-1-142, MCA. Not all respondents saw a public health, safety, or welfare need but, generally speaking, a majority of respondents did.⁴

Licensees arguably would say that the benefit to the public is paramount, either from a health perspective for health-related professions or an economic welfare perspective for professions like Realtors and a safety perspective for those in private security. These licensees can also argue that a licensing board imposes many requirements on them, ranging from educational criteria for the initial license to continuing education to remain licensed. Some boards provide inspections. Other boards promote best practices from their industries. Peer pressure and the threat of fines help to maintain

³ See budget details from July 14-15, 2014, meeting <http://leg.mt.gov/css/Committees/Interim/2013-2014/Economic-Affairs/Meetings/July-2014/july-2014.asp> .

⁴ See the Final Report regarding the two-biennium review of licensing boards and the individual licensing board reports from the survey, which were part of the reviews required by House Bill No. 525 in the 2011 Legislature. (Title and link to come)

professional discipline, these licensees may say. In exchange, the public has a place to find whether someone performing a service for them is licensed by the state to do business and whether that person has any marks against their record of service if found guilty of unprofessional conduct or other violations through a screening and adjudication process administered by fellow licensees.

Not wanting too much interference from government, however, may be one reason that many licensees do not go to the extra step of wanting government to be the regulator, for example, by using a licensing board of their peers to set the rules. A classic example of an industry that has not set up a licensing board is residential construction contractors. Although registered by the Department of Labor and Industry, residential contractors have no licensing board and complaints by the public are basically addressed by lawsuits. In contrast, plumbers are licensed and subject to board oversight.

The discussion on per capita fees in the Department of Livestock arose in relation to funding for the Veterinary Diagnostic Laboratory. Both the Governor's Office and the Board of Livestock, through its executive director, have questioned whether the services provided by the Veterinary Diagnostic Lab benefit the public and not just the livestock industry.⁵

An analysis of testing done at the laboratory by the lab director indicated that 31.6% of the total testing in FY 2014 could potentially identify what are called zoonotic agents, those capable of infecting humans as well as animals. Adding the testing done for the Milk Laboratory boosted that percentage to 41.1% of the total testing in FY 2014. The supposition is that a greater amount of general fund may be requested for the Veterinary Diagnostic Laboratory's budget in the FY2016-2017 biennium because of this perceived public health component.

Testing at the Veterinary Diagnostic Laboratory involved zoonotic diseases – those animal diseases that have the potential to infect humans – about 41% of the time in 2014 when tests for the Milk Laboratory were included with other animal tests.

As for the interplay between budgets and the proposed administrative rule requesting an increase in fees for licensing fuel meters, the EAIC heard from the association representing convenience and gasoline store owners that a 25.3% to 28.6% increase proposed in mid-2014 was unreasonable because, in part, the Department of Labor and Industry used an annual testing schedule, which was different from testing in several other states. The association's letter⁶ also noted that private companies could do some testing more cost-effectively than the Department. For its part, the Department noted in an explanation⁷ for the fee increase the mission of the Weights and Measures Bureau.

The over-arching mission of the Weights and Measures Bureau is to provide equity in the market place. Testing meters ensures that consumers are getting what they pay for and that businesses are not giving product away. When businesses are all licensed and

⁵ Listen to the minutes of the Economic Affairs Committee's July 14, 2014, meeting for this discussion.

⁶ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/August-2013/measuring-device-comment.pdf>.

⁷ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/August-2013/ltr-meter-fee-increase.pdf>

tested in a consistent manner, they all follow the same rules and compete on a level playing field.

What is difficult to determine, because the Business Standards Division budget provided to the Legislature is not reported to a bureau-level basis, is whether the Department had included the meter increase in its projected revenues. The Department stated in response to critics of the fee increase that both scales and meters were projected to increase. HB 591 in the 2013 Legislature increased the fees for scales, because those fees are in statute. The meter fees, however, are set by rule, which allowed the EAIC to intervene, as explained in a letter to the Department in July 2013.⁸ At its next meeting in August the EAIC continued its objection, which meant the rule was delayed from going into effect until after the 2015 Legislative Session.⁹ However, the committee asked the Department to work with stakeholders in the meantime to develop a satisfactory arrangement for all concerned. The Department and Association meetings reportedly have included discussions of whether to privatize the testing or, at the opposite level of regulation, to include the actual fee structures in statute.

What the meter issue highlighted is that fees can increase by rule and be within budget because a budget may be broadly developed to allow for sharing of appropriation authority within that budget. This allows agency administrators some flexibility under a rule-based approach, but increases the importance of rule oversight.

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A concern about “borrowed” appropriation authority surfaced twice during EAIC discussions with the Business Standards Division of the Department of Labor and Industry during the 2013-2014 interim and from different perspectives. The first discussion related to the meter fee issue, which the Division apparently had included in the budget, based on its explanation provided to the EAIC stating: “The recent increase for scale license fees and the proposed meter fee increase were designed such that each will provide half of the total testing revenue needed by the Bureau.”¹⁰ The second discussion about borrowed appropriation authority related to licensing board budgets, in which the Business Standards Division expressed concern about the policy decisions that might be associated with borrowing appropriation authority from some boards to give to other boards. Borrowing budget authority is a process that has occurred over many years, but the Division administrator indicated that future transfers might not be as easily made as during the period of

The potential need to adhere more closely to budgeted appropriation authority and the desire to avoid being in a redistributive position in the future were two reasons for the Business Standards Division to propose alternative financing options.

⁸ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/August-2013/LTRweights-measures.pdf>.

⁹ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/August-2013/weights-measures-followupLTR.pdf>

¹⁰ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/August-2013/ltr-meter-fee-increase.pdf> , p. 3.

2008 to roughly 2011 when the Building Code Bureau suffered from less activity during the recession and had appropriation authority that it could not use. Because of the potential need to adhere more closely to budgeted appropriation authority and the desire to avoid being in a similar redistributive position in the future, the Division had suggested using enterprise funds rather than legislatively approved special revenue accounts. Under that proposal, each board would have had its own fee-funded coffers, which would have had to pay for all costs of the board. The legislatively determined appropriation authority would not have existed because there would have been no appropriation authority set by the Legislature. This could be seen as an open checkbook for boards that had sufficient funds, to the extent that licensees agreed to fee levels. For boards in financial straits, the enterprise fund solution offered no help.

Key Activities

This report follows, in general, the work plan adopted by the EAIC at its meeting in August 2013.¹¹ That work plan divided the EAIC's responsibilities into three main areas: statutory obligations; study activities; and member issues. Each agenda contained times for agency monitoring and rule review--two of the committee's statutory obligations--as well as one or more study activities and at least one member issue.

In 11 days of meetings between June 25, 2013, and September 12, 2014, and one subcommittee meeting on workers' compensation issues December 18, 2013, and another on milk issues on March 27, 2014, the EAIC took the following actions:

- ✓ adopted ___ committee bills. One addressed sales of raw honey at farmers' markets without a license. The bill stemmed from a report to the committee required in House Bill No. 630 (from the 2013 Legislature) about Montana food laws in general. Another bill related to making sure that workers' compensation policyholders can access loss information from their work comp insurers.
- ✓ researched workers' compensation issues as required under House Joint Resolution No. 25 (from the 2013 Legislature), which included implications and costs of putting Montana State Fund under the regulation of the Insurance Commissioner. HJR 25 also sought a review of workers' compensation benefits, a look at subrogation by employers or employers' insurers against at-fault third parties responsible for injuring an employer's employee, the workers' compensation court, and various workplace safety issues.
- ✓ heard reports on the adoption by licensing boards of acceptance of military credentials for certain licensing requirements;

¹¹ See the work plan at <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/About/2013-2014work-plan.pdf>.

- ✓ reviewed the safety and marketing implications of the Department of Livestock's 12-day sell-by date for sales of Grade A milk as well as various other milk-related issues, such as assessments on distributors;
- ✓ intervened on two proposed administrative rules, one affecting the Weights and Measures Bureau in the Department of Labor and Industry and another affecting the Noxious Weed Seed Free Forage Program at the Department of Agriculture. The rule regarding the Noxious Weed Seed Free Forage Program went into effect. The Weights and Measures rule on inspections of fuel meters was delayed as provided in 2-4-306, MCA.
- ✓ reviewed licensing boards as required under the HB 525 study from the 2011 Legislature. The review required an up-or-down vote on whether to recommend retaining the licensing boards. The committee retained all existing licensing boards but as part of its monitoring duties paid special attention to licensing boards and programs that were financially troubled and to boards that had excess cash but not sufficient appropriation authority to spend that cash.
- ✓ examined the Department of Livestock's finances, including concerns about the financing and accreditation of the department's Veterinary Diagnostic Laboratory; and
- ✓ monitored the assigned agencies.

Recurring topics before the Economic Affairs Interim Committee are highlighted in this report. Included, too, is information on the studies undertaken by the EAIC, although a separate report is being provided for the four-year review of licensing boards.

Studies

The Economic Affairs Interim Committee had two studies assigned by the Legislative Council for this interim and the second part of a study required under HB 525 in the 2011 Legislature. The new studies were HJR 25 on workers' compensation issues and SJR 24 on military training equivalency for civilian jobs requiring certain training. The HB 525 study required reviews of the 17 licensing boards not studied in the 2011-2012 interim and a determination of whether they should remain or be terminated.

- ✓ **HJR 25 Study on Workers' Compensation**

This study of workers' compensation involved technical legal issues like subrogation and regulatory issues such as whether to subject Montana State Fund to oversight of the state's insurance commissioner as private insurance companies are. The study also required reviews of: how the workers' compensation court operates and whether nonpolitical appointments are feasible; how the medical utilization and treatment guidelines are working in Montana; the use of stay-at-work and return-to-work forms and the interaction of medical providers and employers related to workers' return-to-work potential; the impact on employees of benefit changes from the 2011 enactment of HB 334; and actions taken or to be taken to improve workplace safety in Montana.

The majority of the meetings involved determining the costs and benefits of having the Insurance Commissioner regulate Montana State Fund, a state entity that is required to provide workers' compensation coverage to any employer that is not in arrears on paying its workers' compensation premium.

For more information on the HJR 25 Study see Appendix A. (available at the meeting)

✓ **SJR 24 Study on Military Training Equivalency for Civilian Jobs**

The EAIC decided at its August 2013 meeting that a white paper would be sufficient for this study, which required monitoring how the licensing boards implemented [HB 259](#) and [SB 183](#) from the 2013 Legislature. The study also asked for information on other certifications or licensure that could use military training as a substitute and suggestions on legislation that might be needed to change statutes to recognize military training in lieu of other credentialing. See Appendix B. (available at the meeting)

✓ **HB 525 Study on Licensing Board Retention**

The review of 17 licensing boards started with information provided to the committee that included overviews of each board, along with budget information and responses to a survey by licensees and others about the importance of the boards and main complaints or kudos for the boards. At first some committee members were skeptical of the need for certain licensing boards. A robust email campaign by members of the Board of Clinical Laboratory Science Practitioners and the Board of Radiologic Technologists--two of the three boards initially reviewed by the EAIC in 2013-2014 interim--showed the EAIC members new to the licensing board process how seriously many licensees and their associations take state licensure. The third board reviewed initially--the Board of Respiratory Care Practitioners--did not have a letter-writing campaign but possibly benefitted from the other boards' licensees' enthusiasm.

After the initial foray into whether licensing boards were needed, the EAIC spent more time looking at board budgeting and financial issues, which the committee is statutorily required to do under 37-1-101, MCA, and its associated monitoring responsibilities for the Department of Labor and Industry. One reason for the financial oversight was because an October 2013 financial-compliance [audit](#) of the Department of Labor and Industry had pointed out that some of the boards and programs (a program also licenses but does not have a board) had cash balances in their accounts at one time in the biennium that exceeded two times the board's or program's annual appropriation or that was greater than the board's biennial appropriation, contrary to 17-2-302, MCA.

Another reason for the oversight is that under 37-1-101(9), MCA, the department is to report to the committee if "a board cannot operate in a cost-effective manner", a situation that enables the department to "suspend all duties...related to the board except for services related to renewal of licenses".

In the 2011-2012 biennium, the Business Standards Division of the Department of Labor and Industry had suspended service to __ licensing boards and to the Athletic Program, which

licenses boxers, boxing matches, and affiliated personnel. The department is expected, according to 37-1-101(9)(c) to "make recommendations to the legislative interim committee with monitoring responsibility for the boards for legislation revising the board's operations to achieve fiscal solvency". Comments came in July 2014 on the Board of Hearing Aid Dispensers, the Board of Funeral Service, and the Board of Private Alternative Adolescent Residential and Outdoor Programs, with legislation proposed in September.

At the EAIC's May 2014 meeting the committee disposed of the remaining obligation under HB 525 to vote up or down on the remaining 14 boards by voting to retain those boards and recognizing that the overall review, which included briefing papers and survey responses, had provided sufficient information to allow a final vote to keep the boards.

For more indepth information about the HB 525 study and the committee's reviews of licensing boards, see the HB 525 final report and the section under agency monitoring for the Department of Labor and Industry plus references to "fees commensurate with costs".

✓ **Report from the HB 630 Study of Montana Food Laws**

A study group consisting of personnel from the Departments of Agriculture, Livestock, and Public Health and Human Services worked with stakeholders in the cottage food industry to develop recommendations for changes in statutes or rules affecting farmers' markets and home-prepared food. HB 630 from the 2013 Legislature required a report¹² to the Economic Affairs Committee. The EAIC asked for a committee bill adopting only one of the study recommendations. That recommendation was to include raw honey as a raw and unprocessed farm product. The U.S. Department of Agriculture already includes raw honey as a raw and unprocessed farm product. The committee bill is _____.

Agency Monitoring

Some interim committees have one agency that they monitor; others have several. The EAIC claims eight agencies, of which some--like children in a classroom--received more attention than others in the 2013-2014 interim. Partly because of the HB 525 study of licensing boards and partly because of the HJR 25 workers' compensation study, the Department of Labor and Industry had a heavy dose of scrutiny by the 2013-2014 EAIC. (And kudos to the Department personnel, especially the Business Standards Division, for taking all that attention in good stride!) Below are summaries of the agency monitoring over this interim.

¹² The HB 630 report and numerous appendices are available on the EAIC's May 2014 meeting date website: <http://leg.mt.gov/css/committees/interim/2013-2014/Economic-Affairs/Meetings/May-2014/may-2014.asp>.

✓ **Governor's Office of Economic Development**

John Rogers, the state's chief business officer, provided an overview of the Governor's Office of Economic Development at the committee's meeting in June 2013. He noted that the office would be providing implementation guidelines for agencies in response to SB 139 from the 2013 Legislature that required agencies to provide small business impact analyses prior to adoption of administrative rules.¹³

Mr. Rogers introduced the Montana Main Street Project initiative of Governor Steve Bullock and noted various efforts being undertaken to improve worker training and business recruitment. One of the products of the Main Street Project was a development plan, made available in April 2014.¹⁴

✓ **Department of Labor and Industry**

The Department of Labor and Industry came before the EAIC several times in the 2013-2014 interim. The overview presentations were during the Aug. 21, 2013, meeting. At that same meeting were the discussions of the weights and measures fee increase plus some information on a budget problem that had developed over a proposed department takeover of a medical assistance program for which four licensing boards have responsibility. The issue was a budget-related incident that caused problems for the department because of its attempts to keep from increasing program costs, which contradicted the efforts by the Board of Medical Examiners to increase the board budget (using existing fees) to expand a contract to address impaired health care providers.

Other Department of Labor and Industry appearances at the EAIC, in addition to those generated by reviews of licensing boards at almost all of the meetings, included:

- a response to financial problems highlighted in a [financial audit](#) at the EAIC's January 27, 2014, meeting;
- a review of workers' compensation benefits presented by the Employment Relations Division on January 28, 2014;
- a review of the Workers' Compensation Court¹⁵ by the Workers' Compensation Judge at that time, Judge Jim Shea; and
- a review of Unemployment Insurance at the July 14, 2014, meeting.

✓ **Department of Agriculture**

The Department of Agriculture received extra attention this interim in part because of its proposed fee increases for weed seed free forage certification. The program had received subsidies in the past from the Noxious Weed Management Trust Fund, but under SB 144 from the 2013 Legislature that subsidy no

¹³ See Appendix C.

¹⁴ See the Main Street Montana website: <http://www.mainstreetmontanaproject.com/>.

¹⁵ See <http://leg.mt.gov/css/Committees/Interim/2013-2014/Economic-Affairs/Meetings/March-2014/march-2014.asp>.

longer was possible. The first letter from the EAIC to the Department of Agriculture went out in August 2013 after the EAIC's Aug. 21, 2013 meeting. Further discussion of the issue at the October 2013 meeting resolved the EAIC concerns that stakeholders who produce the weed seed free forage have an opportunity to comment on the increased fees.

Department of Agriculture Director Ron de Yong reviewed highlights from 2013 for agriculture at the EAIC on January 27, 2014. He listed four main topics:

- Good prices and yields. For example, together wheat and beef brought in more than \$1 billion each to Montana's producers. Mr. de Yong noted that more young people have been returning to agriculture. A concern is that the ups and downs of farming, particularly lower commodity prices, might impact the survival of new producers. Mr. de Yong emphasized the importance of a safety net provided by the federal farm bill, which Congress was at that time considering and soon afterward passed. Mr. de Yong also pointed to the Department's Young Ag Couples convention, which is intended to help new farmers survive and prosper in agriculture. Another survival tactic encouraged by the Department is to establish diversity in commodities being planted.
- Hail losses in 2013. These losses proved to be worse than any in the 97 years of the Department's hail program. Losses were 187% of premiums paid, with program reserves not quite depleted to offset those losses. Mr. de Yong said the Department is looking at using a reinsurance backstop and at increasing premiums.
- The examination of food safety laws required by HB 630. This study brought agriculture to the table with the Departments of Livestock and Public Health and Human Services. Mr. de Yong noted that new entrepreneurs were seeking help in common sense application of food safety laws. (See related study on HB 630.)
- The noxious weed program. The program consists of grants to help thwart noxious weeds and a coordination program among county weed districts and state and federal agencies that deal with public lands. The Great Recession impacted the amount of money coming into the program as did loss of some federal funding. The program in FY 2014 had 2.5 full-time equivalent positions but expected a further reduction in FY 2015 unless the governor provided one-time assistance with contingency funds. Mr. de Yong noted that the department will continue to manage the grants program despite the cutbacks, but that funding was lacking for statewide control efforts and coordination, including with other states, he said.

Other areas of interest that Mr. de Yong pointed out at the January 2014 meeting were:

- the State Grain Lab in Great Falls, which is grading an increased amount of peas and lentils because Montana is the top producer in the nation of these pulse crops;
- the state's four food and ag development centers, which help to develop and market value-added agricultural products. The Ronan center also helps to process them.
- the Growth through Agriculture program, which has more demand than money available for grants; and
- Montana's successful curriculum program for agriculture, which was developed for use in math, science, and social science classes in schools.

✓ **Department of Livestock**

The Department of Livestock received more attention than usual from the EAIC in the 2013-2014 interim. From members wanting to know more about the reason for brand inspections to concerns about the budget and the way milk is labeled for sale in Montana, the interim proved to be a lively one for the Department of Livestock interactions with the EAIC. Discussions and information about horse transportation permits for which brand inspections are necessary was provided at the January 27, 2014, meeting. A representative of the Helena Trail Riders Association provided information from the public's viewpoint of the difficulties occasionally associated with getting transportation permits and brand inspections.

Also at the January 2014 meeting a representative of the Food and Drug Administration responsible for research on milk safety and a scientist with the Cornell University Food Science Department spoke to various food safety issues and explained that Montana's 12-day sell-by date was one of the most, if not the most, restrictive in the nation. The executive officer for the Board of Livestock provided a history of the 12-day sell-by dates, which at that time were the subject of an appeal to the Montana Supreme Court. (The Court later ruled in favor of the Board of Livestock's adoption of rules requiring the 12-day sell-by date.)

At the July 14-15, 2014, meeting the Department reviewed problems with financial transactions that a financial audit identified and reported on plans to address those problems. One option identified by the executive officer was the prospect of requesting more general fund money for the Department's Veterinary Diagnostic Laboratory, which operates on the Montana State University-Bozeman campus. The rationale for more general fund money in part was because the Diagnostic Lab serves a public health and safety purpose in testing for some animal diseases that can transmit to humans, including brucellosis and rabies. Followup information to questions raised at the July meeting was presented to the EAIC at its September 2014 meeting. Also part of the presentation regarding the Veterinary Diagnostic Laboratory was preliminary information from a survey of veterinarians across the state who use the laboratory. Of the 20-plus responses compiled at the time of the meeting, 17 reported they would be impacted significantly if the lab were shut down.¹⁶

✓ **Department of Commerce**

Staff for the Department of Commerce provided an overview¹⁷ of department activities, complete with a video regarding made-in-Montana films, at the March 27, 2014, EAIC meeting. Also at that meeting Mark Noennig provided an overview of the Board of Investment activities. Mr. Noennig is presiding officer of the Board of Investments, one of the agencies administratively attached to the Department of Commerce.

¹⁶ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/July-2014/vet-assn-survey-re-diagnostic-lab.pdf>.

¹⁷ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/March-2014/Commerce-presentation3-14.pdf>.

The Department's presentation focused primarily on activities related to tax credits and loans and grants made by the Department, which has a wide range of functions. Department personnel were asked to provide updates on the effectiveness of the tax credits. The following divisions and activities were included in the Department's presentation:

- Housing Division, which provided information on low-income housing tax credits. In 2014 the program added 171 first-year jobs, \$12.1 million in first-year impact income, and \$2.2 million in first-year impact taxes. Over time, the annual impacts were projected at 28 jobs, \$1.2 million in income, and \$548,000 in taxes for the six projects authorized in 2014.
- Community Development Block Grants and the HOME Investment Partnerships Program, which since 2009 have funded 13 housing projects valued at \$5.35 million and 44 housing projects valued at \$20.45 million, respectively. Both funding sources serve households earning 80% or less than the area median income.
- Treasure State Endowment Program, which since 2009 has funded 40 public infrastructure and community facilities projects valued at \$15.48 million. Many of these were water and wastewater system improvements, but medical clinics and community centers were also among the public projects that received funding.
- Quality Schools Grants, which since 2009 have funded 190 projects totaling \$45.2 million used for school facility repairs, energy efficiency improvements, technology upgrades, and new construction.
- The Montana Coal Board, which since 2009 has funded school, medical, and community facilities, emergency services equipment and facilities, road repairs, and infrastructure improvements, along with planning at a cost of \$15.6 million.
- The Montana Main Street Program, which has awarded \$26.2 million for 77 public improvement projects that contributed to 699 new jobs in downtown districts. Funds have helped to improve the look of 21 designated and affiliated Montana communities and enhance long-term planning, rehabilitation, and revitalization.
- The Community Technical Assistance Program, which has focused on planning in Eastern Montana communities impacted by oil and gas exploration. The program awarded \$150,000 to two economic development programs in the area in 2012.

Also discussed during the presentation was the Board of Horseracing, which the Department of Commerce inherited from the Department of Livestock under SB 215 in the 2013 session. Representatives from that program reported being able to make payments not only on a loan from the Department of Administration that was intended to help the Board get back on its feet, but to racetracks holding race meets and the Montana Breeders and Owners Bonus Program, indicating a return to solvency. In 2014, the report said, live races were allocated to Miles City and Great Falls.

The other main presentations were for the Promotions Division, primarily highlighting film incentives, the Indian Country Economic Development Program, and the jobs and business-related programs incorporated into the Primary Sector Workforce Training Grant Program, the Economic Development component of the Community Development Block Grant Program, and the Big Sky Economic Development Trust Fund.

✓ **State Auditor's Office**

The overview of State Auditor functions took place at the October 22, 2013, EAIC meeting with Commissioner Monica Lindeen providing a review of her office's activities. She also presented information on the health insurance exchange or federal marketplace that Montanans could access to gain health insurance and find out if they were eligible for subsidies to pay premiums.

The Commissioner's staff provided updates on the health insurance policies sold during the open enrollment period for the first year of the federal marketplace at the May 12-13, 2014, meeting. Also at the May 2013 meeting was a review of Insure Montana statistics, including information that indicated 598 businesses were participating in the purchasing pool and 585 were participating in the tax credit option.¹⁸

Other information related to health insurance included:

- an August 21, 2013, presentation by insurer representatives who discussed their approaches to providing policies through the federal marketplace and presentations by navigators chosen by the federal government to help people sign up for policies on the federal marketplace. They were joined by a representative of the insurance industry who discussed agents' roles in helping people obtain health insurance policies.
- a presentation by Tanya Ask, the presiding officer of the Montana Comprehensive Health Association, at the May 12, 2014, meeting regarding termination plans for MCHA. The insurance-funded operation operated to help persons who were denied health insurance prior to implementation of the Affordable Care Act provision banning insurers from denying policies to those with preexisting condition.

At the October 2013 EAIC meeting an actuary hired by the State Auditor's Office also reviewed the previous year's actuarial reports separately prepared by the actuary for Montana State Fund and the actuary for the Legislative Auditor. The State Auditor's actuary provided an updated analysis at the EAIC's September 2014 meeting. The analyses looked at both the Old Fund (shorthand for the claims that occurred prior to July 1, 1990) and the New Fund (a term for claims that occurred on or after July 1, 1990, that Montana State Fund uses premium payments to cover). The Old Fund payouts now are out of the state's general fund because previous amounts available to pay those claims were "raided" and replaced until a subsequent raid in 2002 resulted in a special session bill that included language requiring general fund payments once the Old Fund became inadequate to pay the claims.¹⁹ The actuary's analysis projected higher amounts being needed for Old Fund payments into the future and said current claims in the New Fund were stabilizing in terms of medical costs. Specifically:

Therefore, for the Old Fund, the implications of estimates being higher than TW's [Towers-Watson, the actuary used by Montana State Fund], if our estimates prove to be indicative of future costs, is that more dollars will need to be allocated from the general

¹⁸ For more detail, see: <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/May-2014/insure-montana-2013-stats.pdf>.

¹⁹ See 39-71-2352, MCA.

fund, for perhaps a longer period of years, than would be the case if TW's estimates prove more indicative.²⁰

The actuary hired by the State Auditor's Office returned for an updated review at the September 12, 2014, meeting.²¹

✓ **Division of Banking and Financial Institutions**

The EAIC heard at its May 12, 2014, meeting from the Commissioner of Banking and Financial Institutions, who provided the first overview of the Division of Banking and Financial Institutions since passage of House Bill No. 41 in the 2013 Legislature. HB 41 assigned oversight of the Division to the EAIC. Commissioner Melanie Hall provided data on state-chartered banks (55) and credit unions (8) plus one trust company, which together had assets of more than \$26.5 billion, up from \$25 billion at the end of the 2013 legislative session. She provided updates on the licensing activities for mortgage lenders, brokers, servicers, and loan originators. These combined for about 1,800 licenses. Her office also licenses consumer loan companies (51), sales finance companies (124), and 10 escrow businesses. She reported no deferred deposit lender licenses being issued in the past year.

A large number of mergers and conversions either from or to state charters from federal charters will result in significant changes to Montana's banking and credit union scene, with some of them merging in-state and others having new out-of-state components. Ms. Hall noted that the decision by American Federal Savings Bank to convert from a federal savings bank to a state charter would result in the Banking Board meeting for the first time in 7 years. The Banking Board is required to review new charters.

Ms. Hall noted a number of inquiries about "bitcoin" transactions and whether there are state requirements for licensing. She said Montana is one of three states that do not license money transmitters (S. Carolina and New Mexico also do not). The question about licensing bitcoins, she said, is whether licensing itself gives legitimacy to the alternative method of moving money.

✓ **Montana State Fund**

The overview presentation for Montana State Fund was at the October 22, 2013, meeting, although Montana State Fund was a topic of discussion at almost all the EAIC's meetings during the interim because of the HJR 25 study that included whether to regulate Montana State Fund through the Insurance Commissioner's Office.

²⁰ See Financial Risk Analysts report, presented to the EAIC in October 2013:
<http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/October-2013/msf-actuarial-report-for-state-auditor2013.pdf>.

²¹ See meeting materials for the [September 2014 meeting](#).

For example, at the June 2013 meeting, Montana State Fund distributed its promotional brochure and commented on the proposed HJR 25 work plan. A Dec. 18, 2013, EAIC subcommittee composed of Rep. Tom Berry and Sen. Facey provided more opportunity to analyze why, if at all, Montana State Fund should be regulated by the Insurance Commissioner in the State Auditor's Office. Materials and minutes of that subcommittee are available on the EAIC website under that date.²²

On Jan. 28, 2014, there were answers to some of the questions raised at the December meeting as the EAIC looked in more depth at the rationale behind restructuring. This meeting also included a review of liabilities to be paid from the state's general fund for what is called the "Old Fund", the claims for injuries or occupational disease experienced by workers funded by the then state fund prior to July 1, 1990. This meeting also included an estimation by an actuary for the Public Employees Retirement System of what the cost might be if Montana State Fund shifted its new hires to a private pension system, which would be a necessary precursor to becoming totally separate from the state and becoming a private entity. Cheiron, an actuarial firm hired by PERS, calculated the cost if only new hires at Montana State Fund were moved into a private pension, based on the loss of income from both MSF employees and Montana State Fund whose contributions now help support the current PERS pension system. Unallocated losses over 20 years were projected at over \$108 million, with fund solvency at a negative 0.8%.²³

At the March and May 2014 meetings, the EAIC discussed a proposed matrix of what might be included in a Montana State Fund restructuring. The options were:

- status quo -- no change
- a medium degree of change by making Montana State Fund subject to regulation by the Insurance Commissioner's Office in a manner much like other work comp insurers;
- an all-but-private option, which would have allowed Montana State Fund to function much more independently of the state in terms of putting new hires into a pension system different from the Montana Public Employees Retirement System and no longer using many of the budgetary, check-writing, and mail functions provided by the Department of Administration; and
- a fully private option, which would include requiring a constitutional amendment to remove Montana State Fund from the state Constitution, where investment directives are now contained in Article VIII, Section 13. Similarly, Montana State Fund no longer would be able to use the Board of Investments to handle its investments under this option.

At the March 2014 meeting, the EAIC also heard from national experts on reinsurance provisions, which would be needed if Montana State Fund no longer would have the implicit backing of the state to handle claim payments in a situation where Montana State Fund became insolvent. The question is a matter of debate regarding whether the state is fully responsible if Montana State Fund loses solvency. Not everyone agrees that the state would be "on the hook" as it now is with the Old Fund.

²² See <http://leg.mt.gov/css/committees/interim/2013-2014/Economic-Affairs/Meetings/December-18-2013/december-18-2013.asp>.

²³ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/January-2014/MSF-PERS2014.pdf>.

These national experts included an attorney with the American Insurance Association, who made a point that competition in workers' compensation in Montana might not result in lower rates. He diverted attention regarding the regulatory question by pointing out that lower rates might be more associated with lower benefits than with competition. However, he urged changes to the regulatory structure of Montana State Fund to allow more competition with private workers' compensation insurers because that would create a more level playing field among the insurers.

Not until the July 2014 meeting did a representative of the Governor's Office come before the EAIC to indicate preferences from that office regarding proposals to change Montana State Fund's regulatory structure. However, in late February 2014 the director of the Department of Administration, Sheila Hogan, spoke for the Governor's Office at a special meeting of the Montana State Fund Board of Directors. At that meeting, called to provide an update regarding what the EAIC was considering, Ms. Hogan said that the administration wanted to keep Montana State Fund "in the family". Taking this comment as lack of support for full or even partial independence, the study narrowed to look primarily at regulation of Montana State Fund by the Insurance Commissioner as one way of making the State Fund more like other insurance companies, with more regulation as an insurer.

One sticking point in the study included concerns by the Insurance Commissioner's staff that enforcement of orders would be difficult if the Insurance Commissioner could not use the threat of license removal to accomplish compliance. Another sticking point was the desire by the Insurance Commissioner to have all fraud investigation and prosecution functions in-house, which would mean disbanding the fraud investigation and prosecution office in the Department of Justice, paid for by Montana State Fund. A further concern related to Montana State Fund not being part of the Guaranty Association, which covers claims in case of insolvency of a workers' compensation insurer. This is where the discussion about whether the state is "on the hook" was an important component.

Rule Review

Rule review occurred at all the EAIC meetings and on only two sets of rules did the EAIC take action, including an action that basically suspended enactment of a proposed rule until after the 2015 legislative session. That rule related to increased fees proposed for metering devices, including those used by gasoline stations.

The other rule objection related to increases in proposed fees for weed seed free forage inspections. After further explanation from the Department of Agriculture and an indication from producers of weed seed free forage that the fee increases were not a major concern, the EAIC removed its objections and the fee increases went into effect.

For a list of rules proposed and adopted and comments on these rules see the committee website page related to rules.²⁴

²⁴ See <http://leg.mt.gov/css/Committees/Interim/2013-2014/Economic-Affairs/Rules/rules-table.asp>.

Member Issues

- **Milk**

Rep. Greg Hertz asked for research on the sell-by date by which Grade A milk sold in Montana must show on the container the date 12 days from pasteurization at which date the milk may no longer be sold. A white paper²⁵ on milk-related issues in Montana, ranging from the sell-by date adopted by the Board of Livestock by rule to the distribution system, was presented at the July 2014 EAIC meeting.

- **Horse Inspections**

Sen. Bruce Tutvedt, seconded by several members of the EAIC, asked the Department of Livestock to provide an explanation of how horse brand inspections worked and whether the process could be improved. Executive Officer Christian Mackay provided information at the January 27, 2014, portion of the EAIC meeting and again at the May 12, 2014, meeting. He noted that use of a permanent inspection allowed horseowners to avoid the problem of finding a brand inspector on short notice. And he emphasized to the EAIC that brand inspections acted as a deterrent to horse theft. Although horse theft numbers were low, he said, that may be in part because of the brand inspection deterrent.²⁶

- **Veterinary Diagnostic Lab**

Concerns about the funding and viability of the Veterinary Diagnostic Lab put that state agency back on the EAIC's agenda with some of the same concerns that were raised in a 2009-2010 interim study on the Diagnostic Lab.²⁷ Although that study dealt primarily with the difficulties faced by the laboratory in getting accreditation because of facility inefficiencies, the EAIC found that many of the issues related to the Lab in this interim revolved around funding not only of the Lab but of the Department of Livestock in general. Many stakeholders suggested that if the general fund did not provide more support for the Lab, then perhaps the state should not have a lab. Their concern primarily was that the Lab used per capita fee money that could be used by other Divisions within the Department of Livestock, particularly the Brand Enforcement Division.

Seeking to address both the lab facility and the funding issues, the EAIC asked for information about:

- the costs of building a new lab that would operate in conjunction with the state Wildlife Lab, which is operated by the Department of Fish, Wildlife, and Parks; and

²⁵ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/July-2014/milk-white-paper.pdf>.

²⁶ For information on brand inspections, see the May meeting page: <http://leg.mt.gov/css/Committees/Interim/2013-2014/Economic-Affairs/Meetings/May-2014/may-2014.asp>.

²⁷ See http://leg.mt.gov/content/Publications/Committees/interim/2009_2010/2010-state-labs.pdf.

- the number of animal tests that had a human disease potential, which was an indication of how much general fund money might be requested for the Lab to protect general public health and safety and not just animal health and industry trade in livestock.²⁸

- ***Loss Run Insurance***

A concern raised by Rep. Tom Berry and independent insurance agents at the July 14-15, 2014, meeting led to a proposal for a committee bill on requiring workers' compensation insurers to provide loss run information, including the amounts reserved for ongoing claims. The information had traditionally been provided but after a Montana Supreme Court decision on a related issue, some insurers stopped providing the data, which employers provided to prospective insurers to get an optional premium bid.

- ***Tax Credits***

Sen. Dick Barrett and Sen. Bruce Tutvedt asked the Legislative Fiscal Division to provide information on tax credits by classification to see what demographic groups benefit the most from tax credits.²⁹ Further information on tax credits was made available by the Department of Commerce at its overview presentation in March 2014 and by the Pew Charitable Trust, also in March 2014. The Pew Charitable Trusts representative provided information on determining how effective tax credits are.³⁰

- ***Comparison of Biennial Appropriations***

Sen. Bruce Tutvedt requested the Legislative Fiscal Analyst to analyze the FY 2015 budget from a perspective of all funds. The analysis indicated that with special revenue fund adjustments in and out of the general fund the biennial budget increased 2.2% when looking at all funds rather than the more typical review of the biennial change in general fund expenditures, which between the FY 2013 biennial budget and the FY 2015 biennial budget grew 14.2%.³¹

- ***Review of Health Insurance Exchange / Marketplace***

Sen. Elsie Arntzen asked that the EAIC be kept apprised of actions under way for the federal health insurance exchange or marketplace. The first presentation by insurers participating in the federal marketplace in Montana took place in August 2013, with representatives of Blue Cross Blue Shield of Montana, Pacific Source, and the Montana Healthcare Co-Operative

²⁸ See materials provided at the September 12, 2014, EAIC meeting: <http://leg.mt.gov/css/committees/interim/2013-2014/Economic-Affairs/Meetings/September-2014/september-2014.asp>.

²⁹ See the following Fiscal Division reports: <http://leg.mt.gov/content/Publications/fiscal/other-interim-reports/Credit-Analysis-2012.pdf> and http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/July-2014/EAIC_CreditMemo.pdf.

³⁰ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/March-2014/PEW-goodman.pdf>.

³¹ See the analysis at <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/January-2014/biennial-approp-comparison2014.pdf>.

describing their policy and premium approaches in terms of differences based on geography and provider networks.³²

Insurance Commissioner and State Auditor Monica Lindeen provided an update about the federal marketplace at the EAIC's October 2013 meeting. At that meeting Montana's three navigator group representatives – Montana Primary Care Association, Montana Health Network, and Planned Parenthood of Montana – provided a panel discussion along with a representative of independent insurance agents about the roles of navigators, certified assistance counselors, and insurance agents in helping potential health insurance consumers gain coverage.³³

At the May 12-13, 2014, meeting and again at the July 14-15, 2014, meeting the Deputy State Auditor provided information on the number of people in Montana who had signed up for health insurance on the federal marketplace.

Of the roughly 30,680 Montanans who had selected a plan in the federal marketplace prior to the end of open enrollment at the end of March 2014, 86% were eligible for financial assistance among those whose data was known. The data provided at the May 2014 meeting indicated 36,000-plus people had gained coverage, but some of these obtained coverage from Medicaid or Healthy Montana Kids in the public sector. More details were provided in July. For those buying health insurance plans through the federal marketplace, more than half (56%) signed up for a silver-level policy (in which the plan pays 70% of the average overall costs of essential health benefits and the consumer pays 30%.) Only 1% signed up for catastrophic coverage, while 27% opted for the bronze plan, which pays 60% of the average overall plan costs of coverage. Opting for the 80% coverage plan—gold—were 10% of enrollees, while the 90% platinum plans had 7% of the enrollees.³⁴

Additional information provided at the May 12-13, 2014, meeting indicated that most of the newly insured Montanans were in the individual market – roughly 26,429 policyholders. Increases in Medicaid signups (among those who had been eligible but never enrolled under existing Medicaid or who were eligible for Healthy Montana Kids) consisted of another 8,739 people. There was a loss of about 5,150 policyholders in the small group market, but those were considered to have migrated to the individual market. The bottom line for new insurance policyholders was an estimate of 30,018, for a reduction of 15.4% in the total number of uninsured Montanans. The uninsured rate dropped to 16.9% from 20%.³⁵

³² See <http://leg.mt.gov/css/Committees/Interim/2013-2014/Economic-Affairs/Meetings/August-2013/august-2013.asp> for a memo on the insurers, a map indicating geographic regions for which premium charges could differ, and a chart of rates for the three insurers.

³³ See <http://leg.mt.gov/css/committees/interim/2013-2014/Economic-Affairs/Meetings/October-2013/october-2013.asp>.

³⁴ See <http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/May-2014/state-auditor-ACA-stats.pdf>.

³⁵ The State Auditor's Office based the estimates on surveys of the four largest major medical health insurers active in the Montana market. The notes from a July 17, 2014, email from Deputy State Auditor Adam Schafer indicated that the Office did not survey multiple employer welfare arrangements (MEWAs), which often serve coalitions of like-minded businesses. The email indicated more details would be available in March 2015 after insurers provide supplemental healthcare information to the Insurance Commissioner.

Proposed Committee Bills

The following summaries describe bill drafts adopted as committee bills by the EAIC:

- ✓ **LCpooh** - A bill to include raw honey among the raw and unprocessed farm products that can be sold without a manufacturer's license at a farmers' market.
- ✓ **LCloss** - A bill to require workers' compensation insurers to provide information to policyholders about loss payments and reserves for incurred but not reported losses.
- ✓

Summary of EAIC Meetings and Handouts

An abundance of topics related to agencies monitored by the Economic Affairs Interim Committee kept members busy in Helena during the 2013-2014 interim. For those committee members who also attended the December subcommittee meeting on workers' compensation their monthly tally amounted to 9 months of activities. The Table below provides information regarding the meetings, agencies monitored, and handouts provided in advance of or at the meetings.

Meeting Date	General Tasks	Specific Activity	Handouts
June 25, 2013 Minutes log	Organizational	<ul style="list-style-type: none"> *Elected officers *Appointed liaisons to Montana State Fund and the Rail Services Competition Council *Reviewed work plan 	<ul style="list-style-type: none"> *Agenda *Interim Committee Guidelines *Montana State Fund brochure Draft Work Plan
	Agency Monitoring	<ul style="list-style-type: none"> *Governor's Office of Economic Development *State Auditor's Office 	<ul style="list-style-type: none"> * Review of Health Insurance Marketplace (the Exchange)
	Studies	<ul style="list-style-type: none"> *HB 525 Licensing Boards (Includes all licensing boards to be reviewed in this interim plus background information on each) *HJR 25 Work Comp Study *SJR 24 Military Equivalency Study for Civilian Jobs 	HB 525 Study Plan , Business Standards Division org chart , board budget explanation, overviews of 17 boards. HJR 25 Study Plan SJR 24 Study Plan
	Rule Review		Review of rules for TSEP, Indian language preservation program, chiropractors, speech-language pathologists and audiologists, veterinary medicine board, electrical board, livestock board
August 21, 2013 Minutes log	Organizational	<ul style="list-style-type: none"> * Adopted revised work plan * Adopted SJR 24 plan * Adopted HJR 25 plan 	Revised committee work plan

	Agency Monitoring	* Department of Labor and Industry	Memo , Org Chart , Budget Data , Business Standards Dvn Budget , Indirect Cost Data; Medical Assistance Program Memo, Letters
	Studies	*HJR 24 work comp study	-How comp premiums work -Workers' Comp Annual Report -WorkSafeMT presentation and background -Labor-Management Advisory Council
		*HB 525 licensing boards	*Decision matrix
	Rule Review	*Noxious Weed Seed Free Forage rule proposal, letter *Weights-Measures fee hike Proposal, letter 1, 2 to Department. Letter from Department. Comments.	Review of rules for merging banks, shell (interim) banks, noxious weed seed free forage, plant inspections, management of trichomoniasis, Medicare supplement model regulation, patient-centered medical homes.
	Member Issues	*Health Insurance Exchange from Insurers' Viewpoint	
October 22, 2013 Minutes log	Agency Monitoring	*Montana State Fund	*History *Actuarial Reviews – MSF Actuary and State Auditor's Actuary report and presentation, response. *Actuarial Overview of Old Fund *Analysis of State Fund budget *LFD report on Old Fund options
		*State Auditor's Office	*Overview
	Studies	*HJR 25 – Montana State Fund --Subrogation	See above - Agency Monitoring * Introduction
		*HB525 Licensing Board Review	* Clinical Laboratory Science Practitioners * Radiologic Technologists * Respiratory Care Practitioners See website for comment links
	Rule Review		Reviews related to Federal Community Development Block grants, unemployment insurance, prevailing wage rates,
	Member Issues	*Health Insurance Exchange	*Update *Navigators * Federal Information on Agents

December 18, 2013 Minutes log	Subcommittee on HJR 25 –	Montana State Fund -- Restructuring	*Decision Matrix 1 *Montana State Fund Points * Flow Chart for Restructuring
January 27-28, 2014 Minutes log	Agency Monitoring	*Department of Agriculture	*Oral report (see pp. 13-14)
		*Department of Livestock	*Horse Brand Inspection (see Member Issues below)
		*Department of Labor/Industry	*Workers' Compensation Benefits
	Studies	*HB 525 Board Review	*Options for Licensing *Business Standards Division data *Indirect Costs, Board Deficits *Board of Funeral Service Report *Board of Hearing Aid Dispensers *Memo for HAD-Dept. of Justice *2012 Background on HAD *PAARP Background, Letter *Athletic Program Concerns
		*HJR 25 Study of Work Comp	*Self-Insurers' re: Subrogation * Attorney View: Subrogation *Claims Examiner: Subrogation *Other States: MN, NE, OR, PA, WI *MSF Regulatory Restructuring *MSF PowerPoint, Why Restructure *State Auditor on Restructuring *PERS Report on Restructuring *Old Fund Options, PowerPoint *Legal Memo on Old Fund Liability
	Rule Review		
	Member Issues	*Horse Brand Inspections	*Flow chart *Import permit *Brand/Transport certificate *Permanent inspection
	*Milk Sell-By Date	*NRDC Report on Food Dating *Convenience Store Letter *District Court Decision *Hearings Examiner Report	
	*Veterinary Diagnostic Lab	*2010 SJR 14 Report	
March 27, 2014 Subcommittee: Milk sell-by date Minutes log	Member issue	*Milk Sell-By Date	*Hearings Examiner Report *District Court Decision *Background Report *Board of Milk Control Data See website for public comment

March 27, 2014 Full Committee Minutes log	Agency Monitoring	*Department of Commerce	*Commerce Presentation *Background on Commerce Dept.
		*Board of Investments	*BOI PowerPoint Presentation *Link to BOI FY2013 Report *Performance Audit on BOI *Background on BOI/MSF Boards
	Studies	*SJR 24 Study on Military Training Equivalency	*Draft paper on military training *Appendix
		*HB 525 Study	*Department Update *Board Budget Comparisons for FY2010, FY2011, FY2012, FY2013 *Update on Hearing Aid Memo *Update on Hearing Aid Budget *Contingency Issue, Proposal, Draft *Licensing Fines To General Fund See website for public comment
	Rule Review		
Member Issues	*Tax Credits	*Tax Credits – Use in Montana *How to Tell if Tax Credits Work	
May 12-13, 2014 Full Committee Minutes log	Agency Monitoring	*Banking & Financial Institutions Divisions	* Briefing paper
		*Department of Livestock	* Background paper on thefts, per capita fee. * Tally of brand inspections.
		*State Auditor’s Office	*Update on health insurance signups . * Insure Montana * MCHA Letter , Termination Rept.
	Studies	*HJR 25 – MSF Restructuring	* Competition among insurers * Matrix 2 * Comparison of restructure costs *Additional Old Fund Option * Market Overview : Hockman * Residual Markets Overview: Nau
		*HJR 25 – HB 334 Reviews	*Return to Work/Stay at Work *Treating Physician Memo *Self-Insurer Memo
		*HB525 Study of Licensing Boards	* Board fines to General Fund *Department Financial Options *Department re EAIC Concerns * EAIC Letter on Fiscal Concerns

		*HB 630 Study of Cottage Food Industry and Food Modernization Act	*Food Service Rules * Report Recommendations. See website for appendices.
	Rule Review		
	Member Issues	None	
July 14-15, 2014 Minutes log	Agency Monitoring	*Department of Livestock	*Financial Audit *Budget Considerations *Veterinarian Survey *1993 Report on Ag/Livestock Plan see website for public comment
		*Department of Labor and Industry	*Unemployment Insurance *Licensing Boards – Overview *Fund Types re Financial Options *Analysis of Enterprise Option *Athletic Program Budget, Option (more on website) *Hearing Aid Dispensers *Funeral Services
	Studies	HJR 25: MSF Restructuring	*Draft LCOmsf, Explanation *Bill Draft on Fraud Office *Subrogation Background, Options see website for public comment
	Rule Review		
	Member Issues	*Milk-Related Issues	* White Paper
		*Tax Credits	* Tax Credits by Classification
*Loss-run Insurance			
September 12, 2014 Minutes log	Agency Monitoring	Bill review for all agencies	
	Studies		
	Rule Review		
	Member Issues		

Appendix A: HJR 25 – A Workers’ Compensation Study

Summary

The House Joint Resolution No. 25 Study cast a wide net in relation to workers’ compensation subjects, with a heavy emphasis in HJR 25’s preamble on subrogation. Subrogation is a concept in relation to workers’ compensation that the employer or the employer’s insurer could receive offsets to their costs if a third party is found at fault for causing an accident that resulted in workers’ compensation benefits being paid to an injured worker of that employer. However, obtaining any money is difficult. This is primarily because Montana’s Constitution provides under Article II, Section 16 that “No person shall be deprived of this full legal redress for injury incurred in employment...” and at various times that language has been interpreted to mean that before subrogation can occur the injured worker must be “made whole” as to lost wages, lost consortium, and other losses that workers’ compensation does not cover. But subrogation was only one part of the HJR 25 study. The main attention paid throughout much of the interim was to an option to restructure Montana State Fund, which serves as the state’s guaranteed market for workers’ compensation.

Other subjects discussed at various times during the 2013-2014 interim included: workers’ compensation in general; benefits; a change made in the 2011 session to allow insurers to redesignate an injured worker’s treating physician; plans to keep injured workers on the job or get them back to work quickly; whether changes were needed in the Workers’ Compensation Court; and the role that safety plays in preventing injuries and how best to improve safety.

Appendix B: SJR 24 – A Study of Military Training Equivalency for Civilian Jobs

Summary

The main thrust of this study was to monitor professional and occupational licensing boards to determine if they were adopting rules that recognized that military training inherently had similarities and experiences equivalent to certain civilian licensing requirements. Although not all licensing boards had mirror occupations within the military, all licensing boards adopted fairly standard language recognizing that they would give the benefit of equivalency to military training when a soldier or former soldier seeks licensure. The uniform rule reads:

- NEW RULE: MILITARY TRAINING OR EXPERIENCE: (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a _____ (*fill in the occupation*).
- (2) Relevant military training, service, or education must be completed by an applicant while a member of either:
- (a) United States Armed Forces;
 - (b) United States Reserves;
 - (c) state national guard; or
 - (d) military reserves.
- (3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a [*fill in the occupation*]. Satisfactory evidence includes:
- (a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);
 - (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
 - (c) any other documentation as required by the board.
- (4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

A draft of the SJR 24 Report, provided to the EAIC in March 2014, included a review of the status for the various licensing boards' adoption of the new rule. The report also looked at other activities in state government designed to benefit military personnel. These include work by the Department of Military Affairs and the Job Placement Service in the Department of Labor and Industry.

No statutes were identified as needing to be changed to improve equivalency for military training for licensure or certification. Two mentions currently in law are in 7-32-303, MCA, referencing peace officer employment and certification standards and a skills test waiver for obtaining a commercial driver's license under 61-5-123, MCA.

An updated version of the March SJR 24 draft starts on p. 35. In addition, those interested in benefits available in Montana for Military Personnel and Veterans may be interested in the study produced for House Joint Resolution No. 30, which asked that information be compiled on benefits.³⁶ For example, as relates to agencies monitored by the EAIC, there are the following types of benefits:

- A Work Opportunity Tax Credit, which is a federal credit of up to \$9,600 for a qualifying new hire of certain categories of qualified or disabled or unemployed veterans in the hire's first year of employment.
- Subsidies for home loan mortgages through the Board of Housing for Montana residents who are National Guard members, reservists, or veterans. Federal money also is available for a Veteran Affairs Supportive Housing Program for veterans.

³⁶ See House Joint Resolution 30: Benefits for Military Personnel and Veterans.
DRAFT REVISED 9-11-2014

Update: Military Training Transferability to the Civilian Work Force

Reprinted and updated as necessary from a report provided to the March 2014 EAIC meeting.

The 2013 Legislature passed Senate Joint Resolution No. 24 for a study of how to improve transferability for military training to civilian jobs. Specifically the study asked that an interim committee or staff:

1. monitor work done by professional and occupational licensing boards regarding recognition of military training as equivalent to licensing requirements;
2. identify and examine other certifications or licensing for civilian or state or local government jobs for which military training and skills may be acceptable equivalents; and
3. identify statutes, if any, that may need to be amended to allow reciprocity for military training for licensure or certification. (The term "reciprocity" is used in the bill but, as was pointed out in the March Economic Affairs Committee meeting, there is no expectation that the military will recognize civilian training reciprocally. So the term used in this paper will be transferability.)

The Economic Affairs Interim Committee at its initial meeting in June 2013 asked that staff provide a white paper based on the issues proposed in SJR 24. This paper reviews the points listed above and provides information on what state agencies are doing in relation to employing veterans and members of the Guard or Reserve who may be out of work.

• Professional and Occupational Licensing Board Rules

Two bills, enacted in 2013 jointly as 37-1-145, MCA, directed a rule-making process in which board or program licensure requirements may be met by relevant military training, service, or education completed by a member of the armed forces, a National Guard member, or a member of the military reserves. All rules were to be adopted by July 1, 2014. Most boards met that deadline; a few did not.

In drafting the rule language, the Business Standards Division, which administratively oversees the licensing boards, worked with the veterans' representatives in the Workforce Services Division in the state Department of Labor and Industry as well as the U.S. Department of Labor (through its veterans' affairs unit) to develop appropriate language and documentation references. Adam de Yong, the division administrator, noted, however, that except for the DD 214 there is little standard solid information on which boards can rely. In some cases, de Yong said, boards already were informally recognizing military training for licensure, although health boards had more difficulty obtaining proof of equivalent training.

By late March, 12 boards or programs had held hearings on the draft rule. Not all boards meet on a routine basis, depending on workload and their financial condition. By September 8, 2014, all but 4 of the 33 licensing boards and programs subject to the statute had adopted the rule. Three of those boards planned to file a notice of adoption on September 29, with the rules becoming effective October 10. The Board of Social Work Examiners and Professional Counselors planned to meet in September to take final action on the proposed rule. The statute does not apply to one board, the Board of Private Alternative Adolescent Recreation and Outdoor Programs, which licenses only facilities, not people. Public comment at most of the hearings was nonexistent, but one public comment resulted in the Department amending language about midway through the process to allow for use of a DD 214 discharge document "or other discharge documentation" because Reservists and National Guardsmen who have never been activated do not receive a DD 214 but still may be in need of a job for which their military training applies. See Table 1 for a review of the various boards' implementation of 37-1-145, MCA.

Table 1: Professional and Occupational Licensing Board*/Program Schedule for Adopting Military Rule

<i>Board</i>	<i>Hearing</i>	<i>Comments</i>	<i>Adoption</i>	<i>Rule Filed</i>
Alternative Health Care Board				
Board of Architects and Landscape Architects	2/20/14			
Board of Athletic Trainers				
Board of Chiropractors	2/10/14	none	4/4/14	
Board of Clinical Laboratory Science Practitioners	4/3/14			
Board of Barbers and Cosmetologists	4/3/14			
Board of Dentistry	4/4/14			
Electrical Board	3/24			
Board of Funeral Services	4/18/14			
Board of Hearing Aid Dispensers	2/10/14	none		
Board of Massage Therapy				
Board of Medical Examiners	4/18/14			
Board of Nursing				
Board of Nursing Home Administrators	2/10/14	none		
Board of Occupational Therapy Practice	3/11/14			
Board of Optometry	4/3/14			
Board of Outfitters	4/18/14			
Board of Pharmacy	4/18/14			
Board of Physical Therapy Examiners	4/3/14			
Board of Plumbers	3/24/14			
Board of Private Security	4/3/14			
Board of Professional Engineers and Professional Land Surveyors	4/18/14			
Board of Psychologists				
Board of Public Accountants	4/3/14			
Board of Radiologic Technologists	3/24/14			
Board of Real Estate Appraisers	2/10/14	None	3/25??	
Board of Realty Regulation				
Board of Respiratory Care Practitioners	4/18/14			
Board of Sanitarians	3/11/14			
Board of Social Work Examiners and Professional Counselors				
Board of Speech-Language Pathologists and Audiologists	3/24/14			
Board of Veterinary Medicine				
Programs: Addiction Counselors	2/10/14	none	3/17 ?	
Athletics*				
*Did not adopt rules. The Private Alternative Adolescent Residential Outdoor Treatment Board licenses only facilities and so did not adopt rules. The Athletics Program had no money for rulemaking.				

- ***Other Certifications or Licensing for which Military Training May Apply***

At least two statutes reference certifications that may relate to military training, and one of these was amended in the 2013 Legislature to provide recognition of military training. The statutes are:

- **7-32-303 – Peace office employment ... certification standards.**

This statute regarding certification standards for peace officers is administered by the Public Safety Officer Standards and Training Council, attached to the Department of Justice. POST states on its website:

Military training is accepted hour for hour only with a written explanation of how the training relates to civilian law enforcement, and needs to follow the same rules as required for out-of-state and other training certification.

POST executive director Perry Johnson says he gets calls from former military personnel who have seemed satisfied with the standard application of hour-for-hour credit. Certification requirements are referenced on the POST website at: <https://doj.mt.gov/post/post-certification-requirements/>.

- **61-5-123 – Skills test waived for commercial CDL.**

House Bill No. 508 in the 2013 Legislature provided a waiver of skills test for a veteran who meets certain criteria, including not having a license suspended, revoked, or canceled, and no convictions for a serious traffic violation or other motor vehicle traffic violations other than parking violations.

The Department of Justice through its Motor Vehicle Division did not have to go through rulemaking to implement HB 508's Section 1 regarding the skills test waiver. The Department notes: "Qualification is determined by the commanding officer, who typically certifies the qualification before the service member is discharged." The website also stresses that the knowledge test may not be waived nor could certain endorsements, such as school bus or hazardous materials endorsements, be transferred. The waiver applies to those currently in the military or employed within a military position in the last 90 days who operated a military motor vehicle equivalent to a commercial motor vehicle. The Division included on its website a form from the Federal Motor Carrier Safety Administration available for a waiver: https://doj.mt.gov/wp-content/uploads/APPLICATION-FOR-MILITARY-SKILLS-TEST-WAIVER_CD-L-ST-WVR.pdf.

Brenda Nordlund, MVD administrator in March, said an informal estimate indicates about 20-30 veterans have used the military waiver in Montana.

- ***Statutes that May Need Amending to Allow Military Training Transferability***

No other statute clearly relates to employment transferability for military training. The following options might be considered to help improve veterans' employment, if legislators were inclined, and most likely would require a change in statutes to provide additional veterans' preference:

- look at revising apprenticeship provisions other than those dealing with professions or occupations already covered by a licensing board;

- modify existing tax incentives for job training to lower the match required of employers who increase the number of jobs available to veterans through such training grants as those available through the Primary Sector Business Workforce Training Act in Title 39, chapter 11, the Incumbent Worker Training Program in Title 53, chapter 2, or the Big Sky Economic Development Program in Title 90, chapter 1.

- ***Ongoing Activities Aimed at Helping Veterans Find Employment***

State government has taken an active role in helping veterans and military enlistees in the Montana National Guard and Air National Guard as well as members of the Air, Navy, and Army Reserves find employment if they are without a job. Statistics are not readily available on the employment status of those people who have signed up for Montana's Guard and Reserve forces to serve one weekend a month (and 2-3 weeks in the summer). Some may be employed but others looking for work. The federal Uniformed Services Employment and Reemployment Rights Act protects employees of the Guard or Reserve by assuring that those returning from military service or training have a right to be reemployed at the former job or a nearly comparable job with the same benefits. This section is not about implementing those USERRA benefits. Rather, the concern voiced to legislators is for finding employment for both the unemployed "weekend warriors" in the Guard and Reserves and the veterans who served in any of America's service branches. For the purposes of this report, the term "veterans" will be generally used to include not only those who are former active military under Title 32 of the United States Code but also those Montana Guard or Reserve members who have completed what the military terms a "qualifying active duty term of service". The Guard and Reserve are enlisted under Title 10 of the Montana Code Annotated, but if called to active duty by the U.S. government they activate under Title 32.

The unemployment rate in Montana for veterans was 6.4% in 2013, compared to 5.2% for nonveterans and 5.6% as a whole. Nationally the unemployment rate for veterans is about 6.6%. What perhaps is most significant is that Gulf War II veterans had a 9% unemployment rate, the highest of any group of veterans. More information on the statistics is available in Tables 2 and 3 from the Department of Labor and Industry. What is not always clear from statistics, however, is that a recently returned Guard deployment of 148 soldiers had 42 members who came home and were looking for jobs.

The most likely state-based avenues for assistance in finding jobs are through the Montana Department of Military Affairs or the Workforce Services Division of the Department of Labor and Industry.

- ***Department of Military Affairs***

A voluntary group called Employment Services for Guard and Reserve or ESGR helps the Department of Military Affairs find employers willing to hire former military. The Department also has staff who help veterans use their military benefits, including the federally supported G.I. Bill and the state-supported Scholarship for Eligible Purple Heart Recipients, enacted in 2013 (see 10-2-118, MCA). Chris Hindoién with ESGR said the passage of HB 508 has helped veterans get a commercial driver's license. He expects that former military medics and master electricians will find the new military training recognition by licensing boards helpful as they transition to civilian equivalents of their military jobs.

- ***Workforce Services***

The Workforce Services Division, which operates the Job Service offices in Montana houses a Veterans Services office, which oversees a Veterans Retraining Assistance Program and other veterans' employment programs. The Veterans Retraining Assistance Program provides up to 12 months of training. A list of specialists specifically working with veterans at 23 Montana Job Service offices throughout the state is available at <http://wsd.dli.mt.gov/veterans/vet1.asp>.

Mike Cooney, administrator of the Workforce Services Division, provided performance measures indicating increases or retention in the following employment measures as of 2013, compared with the previous monitoring period:

- veterans entering employment moved from 60% to 64%;
- veterans' employment retention stayed at 83%;
- disabled veterans entering employment moved from 53% to 57%; and
- disabled veterans' employment retention went from 82% to 83%.

Cooney noted that there has been some difficulty in obtaining information from the military, not only because across-the-board comparisons of training are not readily apparent in many cases but because veterans have difficulty accessing a description of their military training. The Department of Defense reportedly is working on those comparisons. Websites, for example, are available that suggest civilian equivalents to military jobs, such as military.com's skill translator. At that site a person can type in what branch of the service they were in, their pay grade, and their military job title. As one example, typing in that a person served as an enlisted recruiter for the Army at grade E-5 might get the following civilian skill matches: contract administration, human resources processes, job placement services, proofreading/editing, and public/media relations. The search can further be targeted to specific states, which then shows potential job-related openings.

Promoting recognition of military training and experience for those applying for civilian licensure of professions and occupation was one of the 2013 goals of the Department of Defense organization called USA4Military Families. The Western Region State Liaison sent a letter in favor of SB 183 in the 2013 session. That was one of the two bills that required the Department of Labor and Industry to recognize military training equivalencies in professional and occupational licensure. The other was HB 259.

- ***Other Help for Veterans Transitioning to the Civilian Workforce***

The private sector also is involved in ways to help veterans transition to the civilian workforce. Below are some examples:

- The American Farm Bureau is working with the Farmer Veteran Coalition Partnership to train beginning farmers, make equipment available to veteran farmers, and find ownership or employment opportunities for veterans. See <http://www.farmvetco.org>. One of the facts listed on the website is that 45% of the military population comes from rural areas. (Information from website and Montana Farm Bureau News Brief Vol. 31, No. 8, December 2013.)

- The U.S. Chamber of Commerce Foundation has a Hiring our Heroes program. In the first year of its operation, 2011, Hiring Our Heroes had a job fair in Great Falls for members of the Montana Guard and military reserves.
- **Department of Defense Assistance**
- [H2H.jobs](#), standing for Hero 2 Hired, provides career recommendations and a career assessment test to help veterans find a good match for their skills.

Table 2: 2013 Employment Status of Veterans 18 Years and Older in Selected States (Numbers in 1000s)

<i>States</i>	<i>Civilian Noninstitutional Population</i>	<i>Labor Force</i>	<i>% in Labor Force</i>	<i>Employed</i>	<i>Unemployed</i>	<i>Unemployment Rate</i>
Total All States	21,397	10,975	51.3%	10,253	722	6.6%
Montana	104	52	50.0%	49	3	5.8%
Alaska	77	47	61.0%	45	2	4.3%
Arkansas	219	83	37.9%	79	4	4.8%
California	1,788	870	48.7%	801	69	7.9%
Colorado	401	225	56.1%	209	16	7.1%
Hawaii	103	51	49.5%	49	2	3.9%
Idaho	126	62	49.2%	57	4	6.5%
N. Dakota	53	32	60.4%	31	1	3.1%
Oregon	344	159	46.2%	149	9	5.7%
S. Dakota	73	41	56.2%	39	2	4.9%
Utah	144	73	50.7%	69	3	4.1%
Washington	662	355	53.6%	329	26	7.3%
Wyoming	56	32	57.1%	30	2	6.3%

Table 3: Demographics of Montana Veterans and Nonveterans, 2008-2012

	Total	Veterans	Nonveterans
<i>Civilian Population 18 years and over</i>	764,182	97,991	666,191
Gulf War (9/2001 or later) veterans		10.1%	
Gulf War (8/1990 to 8/2001) veterans		15.8%	
Vietnam era veterans		37.2%	
Korean War veterans		11.4%	
World War II veterans		8.0%	
Male	49.7%	93.0%	43.3%
Female	50.3%	7.0%	56.7%
18 to 34 years	28.2%	7.9%	31.1%
35 to 54 years	34.2%	24.2%	35.7%
55 to 64 years	18.3%	25.9%	17.2%
65 to 74 years	10.7%	21.5%	9.1%
75 years and over	8.7%	20.5%	7.0%
White	91.4%	94.0%	91.1%
American Indian and Alaska Native	5.4%	3.5%	5.6%
Two or more races	1.6%	1.5%	1.7%
Educational Attainment of People 25 and Older			
Less than high school graduate	8.2%	7.2%	8.3%
High school graduate (includes equivalency)	30.3%	32.3%	30.0%
Some college or associate's degree	33.0%	35.7%	32.6%
Bachelor's degree or higher	28.5%	24.9%	29.1%
Medium Income in Past 12 months (includes only those with income)	\$24,626	\$32,445	\$23,320

Source: American Community Survey 5-Year Estimates, 2008-2012, U.S. Census Bureau