

## ***Economic Affairs Interim Committee Work Plan for the 2015 - 2016 Interim***

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for presentation at the EAIC June 10, 2015, meeting

### **Summary**

This work plan for the 2015-2016 Economic Affairs Interim Committee (EAIC or Committee) contains:

- an introduction regarding EAIC duties;
- details related to the EAIC's statutory duties;
- plans for a required study on the fees charged to licensing boards by the Department of Labor and Industry;
- plans for any studies assigned by the Legislative Council to the EAIC;
- a proposed schedule in which to accomplish EAIC activities; and
- topics that EAIC members or staff have suggested pursuing (Appendix A).

Committee members at the first meeting will be asked to outline their goals for the interim in addition to their expectations for implementing study plans. This work plan may be revised periodically, taking into consideration budget, emerging issues, and timing

### **I. *Introduction***

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

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

The EAIC presiding officer also has the responsibility to name:

- two EAIC members as liaisons to the Montana State Fund, a state entity that provides a guaranteed market for workers' compensation insurance; and
- two EAIC members (one from each party and each legislative body), with vice presiding officer concurrence, to the Rail Service Competition Council.

In the past interim the liaisons named to the Montana State Fund were Rep. Tom Berry and Rep. Lea Whitford. Past liaisons to the Rail Service Competition Council were Sen. Bruce Tutvedt and Rep. Ryan Lynch.

### **Budget and Meeting Dates**

The EAIC budget for the 2013-2014 biennium is \$32,991, slightly more than the \$31,711 for the

last interim. For the first meeting, the EAIC is able to tap money left over from the last interim, which means the budgeted amount for the FY2015-FY2016 biennium is able to cover an estimated 10 meeting days, of which two meetings would cover 2 days each. If the members decide to have a subcommittee, the staffing and budget for subcommittee meetings would take away from the main EAIC staffing and budget proportionately.

The bulk of the budget is for members' travel and per diem costs for meetings but allows for additional expenditures, such as the use of remote meeting technologies, meetings out of Helena, or conferences or other meetings related to the EAIC's work. See Table 2 later in this document for proposed meeting dates.

The costs for two EAIC members to serve as liaisons to the Montana State Fund are separately identified in the Legislative Services Division budget. That amount is \$4,484, and liaisons submit their claims separately to the EAIC staff. Liaisons can count on attending approximately five Montana State Fund meetings a year. The remaining meetings for 2015 are Sept. 18 and Nov. 20. Anticipated for 2016 are meetings in February, May, June, September, and November.

The costs for the Rail Service Competition Council liaisons are covered by the Department of Transportation. In 2014 the Rail Service Competition Council met five times, with an economic development subcommittee meeting twice. In 2015 the Council's first meeting was in March.

The study resolutions require that interim committee work, including final reports, recommendations, and any proposals for legislation, be completed by Sept. 15, 2016.

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

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

- (a) review administrative rules within its jurisdiction;
  - (b) subject to 5-5-217(3), conduct interim studies as assigned;
  - (c) monitor the operation of assigned executive branch agencies with specific attention to the following:
    - (i) identification of issues likely to require future legislative attention;
    - (ii) opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and
    - (iii) experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action;
  - (d) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules; and
  - (e) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work.
- (2) Each interim committee shall prepare bills and resolutions that, in its opinion, the welfare of the state may require for presentation to the next regular session of the legislature.
- (3) The legislative services division shall keep accurate records of the activities and proceedings of each interim committee.

**Table 1: Agencies Assigned to the EAIC and Areas of Interest**

<b>Department of Agriculture</b> <ul style="list-style-type: none"> <li>• Agricultural Development Division</li> <li>• Agricultural Sciences Division</li> <li>• Central Services</li> <li>• State Grain Laboratory</li> </ul>	MT Wheat & Barley Com'te	Hail Insurance Board
	Noxious weed-related advisory councils (3)	
	Alfalfa Seed Committee	Organic Advisory Committee
	Cherry Advisory Committee	Potato Advisory Committee
		Pulse Crop Advisory Com'te
<b>Department of Commerce</b> <ul style="list-style-type: none"> <li>• Business Resources</li> <li>• Community Development</li> <li>• Director's Office</li> <li>• Energy Division</li> <li>• Housing Division</li> <li>• Montana Promotion Division (Office of Tourism/Film Office)</li> </ul>	Board of Housing	MT Facility Finance Authority
	Board of Investments	MT Heritage Commission
	Board of Research and Commercialization	Small Business Development Center Advisory Council
	Economic Development Advisory Council	State Tribal Economic Development Commission
	Coal Board	Tourism Advisory Council
	Hard-rock Mining Impact Bd	Board of Horseracing
<b>Department of Labor &amp; Industry</b> <ul style="list-style-type: none"> <li>• Business Standards Division</li> <li>• Centralized Services Division</li> <li>• Employment Relations Division</li> <li>• Unemployment Insurance Division</li> <li>• Workforce Services Division</li> <li>• Workers' Compensation Court</li> </ul>	Professional and Occupational Licensing Boards (33)	
	Building Codes Bureau	Occupational Safety / Health
	Weights and Measures Bur	Apprenticeship / Training
	Montana Human Rights Commission	Incumbent Worker Training Program
	Board - Personnel Appeals	Foreign Labor Certification
	Unemployment Insurance Appeals Board	MT State Employers Council
	Labor-Management Advisory Council	State Workforce Investment Board
<b>Department of Livestock</b> <ul style="list-style-type: none"> <li>• Animal Health Division</li> <li>• Brands Enforcement Division</li> <li>• Centralized Services Division</li> <li>• Diagnostic Laboratory Division</li> </ul>	Livestock Loss Board	Board of Milk Control
	Meat and Poultry Inspection Bureau	Milk and Egg Inspection Bureau
<b>State Auditor's Office</b> <ul style="list-style-type: none"> <li>• Insurance Division</li> <li>• Securities Division</li> </ul>	Phasing out or phased out: -MT Comprehensive Health -Insure Montana	Patient-Centered Medical Home Advisory Council
<b>Gov's Office of Econ. Develop.</b>	Statutory duties	
<b>Division of Banking/Financial Institutions</b>	Statutory duties	
<b>Montana State Fund</b>	Statutory duties, including budget review per SB 379	

## **Duties Required in Statute**

### **A. Rule Review**

Under 5-5-215, MCA, an interim committee "shall review administrative rules within its jurisdiction." There are different ways of doing the review ranging from in-depth analysis to general oversight, depending on the Committee's choice. In the past, EAIC legal staff typically reviewed rulemaking notices from all of the agencies that the EAIC monitors and provided information to the Committee on generally significant rules but only raised flags on a rule if the attorney considered the rule to be noncompliant with legislative intent or otherwise not meeting the Montana Administrative Procedure Act (MAPA). The EAIC could request the Committee attorney to pay particular attention to rules affecting constituent concerns, if any. According to MAPA, the committee charged with reviewing agency rules may:

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

### **B. Program Monitoring**

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

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

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

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

### **C. Draft Legislation Review**

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

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

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

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

Because agencies are expected to have submitted their proposals to the Governor's Office by June in the year preceding the legislative session, interim legislative committees can begin as early as that June to review the legislation. The EAIC often has reviewed agency legislation at its last meeting of the interim. According to Joint Rule 40-40(5)(a): "Unless requested by an individual member, a bill draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee." Typically, agency draft legislation is not ready by September, so the agencies present only the concepts.

#### **D. Maintain Adequate Records of Activities**

Under 2-3-212, MCA, if an audio recording is designated as the official record, written records of meetings must also be kept to provide assistance to the public in accessing the relevant portion of the meeting. The Legislative Council has decided that the audio recording stands as the official record. Unless otherwise requested by the Committee, the written material regarding minutes will be a log or guideline to topics, the times that they were addressed, and the names of those who spoke on the subject. As this type of record, there is no need for the Committee to approve the minutes log. The audio recording serves as the official record.

As for other records of activities, staff relies on communication with EAIC members using both e-mails and letters. If an EAIC member prefers communication in only one form, please let staff know and they will adjust to match preferences. Information will be sent to the EAIC members approximately 2 weeks prior to a meeting by mail and posted on the Committee website. Material may be sent in more than one batch. Legislators may refer constituents or interested parties to the website for information or to sign up for electronic notification of EAIC activities. The website is: <http://leg.mt.gov/css/Committees/Interim/2015-2016/Economic-Affairs/default.asp> or simply <http://leg.mt.gov/eaic>.

#### **E. Additional Statutory Duties**

- **Licensing Board or Program Review.** As part of its monitoring duties related to the Department of Labor and Industry, to which professional and occupational licensing boards are administratively attached, the EAIC is responsible for deciding:
  - if any particular licensing board or program is not needed; or

- if the financial solvency of the board or program is questionable. Under 2-8-404, MCA, the EAIC is required to notify the department if the Committee itself wants to review boards or programs for the purpose of sunseting them or combining them with another board.
- Under 22-3-1002(1), MCA, the EAIC is required to review the administrative fee negotiated between the Montana Heritage Preservation and Development Commission and the Department of Commerce.
- The creation of the Wood Product Industry Loan Program in the Department of Commerce included a requirement in 90-1-503, MCA, that the Department of Commerce report to the EAIC about the status of the distressed wood products industry loan account.
- The Rail Service Competition Council (RSCC) under 2-15-2511(3)(a), MCA, is to "report to any standing or interim legislative committee that is assigned to study or has oversight duties for rail service competition issues."
- Another statutory requirement, required by House Bill 142 from the 2011 session, is for each interim committee to review advisory councils and reports that must be provided to the Legislature to determine whether they are serving their purpose or are no longer necessary. In the 2013-2014 interim the Economic Affairs Interim Committee voted at its last meeting to remove Advisory Councils created by statute and attached to agencies monitored by the Committee. The Committee bill to implement the conceptual vote resulted in some consternation among Committee members about the impact on the Tourism Advisory Council. That bill, LC410, was not introduced and a subsequent, identical bill draft, LC605, similarly was left on the vine. The advisory councils covered by the bill draft would no longer have been mandatory but would have been permissive if the agencies to which they are attached (shown in parentheses below) determined a need to retain them. These advisory councils were:
  - ▶ Tourism Advisory Council (Commerce) created under 2-15-1816, MCA;
  - ▶ Economic Development Advisory Council (Commerce) created under 2-15-1820, MCA;
  - ▶ Advisory Council on Continuing Education for Insurance Licensees (SAO) created under 33-17-1204, MCA;
  - ▶ Advisory Council on Risk Management Activities (SAO) created under 33-23-520, MCA;
  - ▶ Noxious Weed Management Advisory Council (Agriculture) created under 80-7-805, MCA;
  - ▶ Montana Noxious Weed Seed Free Forage Advisory Council (Agriculture) created under 80-7-904, MCA; and
  - ▶ Organic Commodity Advisory Council (Agriculture) created under 80-11-601, MCA.

The following reports are required and were briefly brought to the attention of the 2013-2014 interim EAIC and voted upon with all recommended for retention. Either the EAIC is specifically assigned to receive the report or the report is under an agency for which the EAIC is responsible:

- ▶ State Agency and County Weed District Biennial Noxious Weed Report (Agriculture), 7-22-2151, MCA;
- ▶ Montana Board of Investments Annual Report (Commerce), 17-5-1650, MCA;
- ▶ Apprenticeship and Training Program Biennial Report (Labor and Industry), 39-6-101 and 5-11-210, MCA;
- ▶ Business and Industrial Development Corp. Report (Banking and Financial Services), 32-11-306, MCA;
- ▶ Livestock Loss Reduction Report (to be made to the Legislature and the Board of Livestock), 2-15-3113, MCA;
- ▶ Distressed Wood Industry Report (Commerce), 90-1-503 and 5-11-210, MCA; and
- ▶ Montana State Fund under SB 379 in the 2015 session is to provide a report on its approved budget to the Economic Affairs Interim Committee. Until SB 123 takes effect in January 2016, Montana State Fund also is subject to the reviews under 39-71-2361(2), which include a report by the insurance commissioner on analyses of actuarial reports conducted on behalf of the legislative auditor. The actuary hired by the legislative auditor reports sometime after October (39-71-2362, MCA).

The Economic Affairs Interim Committee in the 2011-2012 interim decided not to review any of the following boards or committees and the 2013-2014 EAIC decided not to ask for information on these, other than those that came before the Committee for rule review purposes (e.g., the Noxious Weed Summit Advisory Council). These boards, committees, or other entities may contain an advisory function but are not specifically termed advisory councils or are not created statutorily:

- ▶ Montana Noxious Weed Summit Advisory Council (Agriculture) created under executive order;
- ▶ Montana Agriculture Development Council (Agriculture) provided for in 2-15-3015 and 90-9-103, MCA;
- ▶ Montana Alfalfa Seed Committee (Agriculture) created under 2-15-3004, MCA;
- ▶ Montana Cherry Advisory Committee (Agriculture) created under 80-11-510, MCA (a statute giving the department general creation authority);
- ▶ Montana Potato Advisory Committee (Agriculture);
- ▶ Montana Pulse Crop Advisory Committee (Agriculture);
- ▶ Montana Wheat and Barley Committee (Agriculture) created under 2-15-3002, MCA;
- ▶ Board of Hail Insurance (Agriculture) created under 2-15-3003, MCA, and Title 80, ch. 2, part 2;
- ▶ State Workforce Investment Board (Labor and Industry);
- ▶ Board of Personnel Appeals (Labor and Industry);
- ▶ Board of Labor Appeals (Labor and Industry);
- ▶ Board of Housing (Commerce) created under 2-15-1814, MCA;
- ▶ Coal Board (Commerce) created under 2-15-1821, MCA;
- ▶ Board of Research and Commercialization Technology (Commerce) created under 2-15-1819, MCA;
- ▶ Hard-rock Mining Impact Board (Commerce) created under 2-15-1822, MCA;
- ▶ State Tribal Economic Development Commission (Commerce) created under 90-1-131, MCA;
- ▶ SBDC (Small Business Development Center) Advisory Council (Commerce);
- ▶ Montana Heritage Preservation and Development Commission (Commerce) created

- ▶ under 22-3-1002, MCA;
- ▶ Montana Facility Finance Authority (Commerce) created under 2-15-1815, MCA;
- ▶ Board of Investments (Commerce) created under 2-15-1808, MCA;
- ▶ Montana Council on Developmental Disabilities (Commerce) created under 2-15-1869, MCA; and
- ▶ Mint Committee (Agriculture) created under 2-15-3006, MCA, but repealed under SB 78, effective July 1, 2015.

**STAFF RECOMMENDATION:** The Committee might want to do a review under the HB 142 requirement of some advisory committees that are not strictly named as such, especially if there was not a review in the last interim of those that are statutorily created. There may no longer be a need for some of these statutorily created committees, and the purpose of HB 142 was to determine whether there was a need or not. Similarly, the Committee may want to decide whether reports are necessary and, if not, whether to suggest that statutorily required reports be revised.

### III. **Study Activities**

The Economic Affairs Interim Committee has two studies during the 2015-2016 interim: a study of how the Department of Labor and Industry determines fees that are commensurate with costs for operating licensing boards (required by Senate Bill No. 390) and a study assigned by the Legislative Council on May 18, 2015, of options related to regulation of membership-based health care, in particular membership-based air ambulances (as provided in House Joint Resolution No. 29).

- ▶ **Senate Bill No. 390** -- In one respect, this study follows up on a two-interim review in which the Economic Affairs Interim Committee received information on all the licensing boards under the Department of Labor and Industry to determine whether each professional and occupational licensing board remained necessary and met a public purpose. That so-called HB 525 study, named for the 2011 legislation directing the study, required a review of one-half of the 33 licensing boards then in existence in the 2011-2012 interim and the other half in the 2013-2014 interim. Reviews of the licensing boards showed, in part, frustration among some licensees with the cost of their licenses. In both 2011-2012 and 2013-2014, the EAIC heard at a somewhat abstract level how the Department of Labor and Industry assessed its fees to be commensurate with the costs of operating the licensing boards. That HB 525 study was more about the boards and less about their costs; the SB 390 study now directs the Committee to analyze in more depth how the Department of Labor and Industry determines its charges. See Appendix B for a study plan for SB 390.
- ▶ **House Joint Resolution No. 29** -- This resolution proposes a study of membership-based health services in terms of financial impacts on consumers, medical facilities and providers, and regulatory enforcement mechanisms. The study also will look at how other states have handled membership-based health care and potential legislation. See Appendix C for a study plan for HJR 29.



**IV. Other Interim Activities**

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

**V. Member Issues**

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

**VI. Staff Recommendations for Additional Activities**

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

**VII. Tentative Interim Calendar**

The following tentative schedule is proposed.

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

Date	Phase	Research Tasks/Policy Issues
June 10, 2015	Organizational	*Elect Officers *Appoint liaisons to State Fund, Rail Services Competition Council, Subcommittee on SB 354 disbursements *Decide work plan (determine involvement in rule review, extent of agency monitoring, meeting times)
	Agency Monitoring	Department of Labor and Industry
	Rule Review	
	Studies	Work plans related to assigned studies

Date	Phase	Research Tasks/Policy Issues
July 15, 2015 at Big Sky during PNWER summit (3-hour meeting)	Work Plan  Agency Monitoring  Studies  Rule Review  Member Issues	Adoption HB 142 - Advisory Council/Committee reviews?  *Dept of Livestock (HB 2 requires early July budget review) *Governor's Office of Economic Development *Department of Commerce
September 15, 2015	Studies  Agency Monitoring  Rule Review  Member Issues	SB 390 - Overview of Department of Labor and Industry budgeting for licensing boards  Montana State Fund - review structure and finances including Old Fund reviews and review by State Auditor of Montana State Fund financial statements
December 1-2, 2015	Studies  Agency Monitoring  Rule Review  Member Issues	SB 390  HJR 29  Department of Agriculture
February 4-5, 2016	Studies  Agency Monitoring  Rule Review  Member Issues	HJR 29  State Auditor - Wrap-up of Insure Montana Program and Montana Comprehensive Health Assn. plus overview of agency activities
April 20, 2016	Studies  Agency Monitoring  Rule Review  Member Issues	HJR 29  Division of Banking and Financial Institutions

Date	Phase	Research Tasks/Policy Issues
June 23, 2016	Studies	HJR 29
	Agency Monitoring	Montana State Fund budget
	Rule Review	
	Member Issues	
August 30, 2016	Studies	Wrap-up: HJR 29 SB 390
		Agency Monitoring
	Legislative Review	Committee bills?
	Member Issues	All monitored agencies' bill drafts
	Rule Review	

**VIII. Web Resources**

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

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

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

Table 3 provides a brief description of the Committee's involvement over the course of the interim. The columns provide members with options for allocating their time. It is anticipated that choosing the most involvement for each activity will seriously tax the EAIC's time, staff resources, and budget. The table is intended to be flexible yet help the Committee members recognize that only a limited amount of Committee time is available for activities that are not mandated.

## EAIC Matrix for Setting Priorities for Interim Committee Activities

ACTIVITY	Most Involvement	Moderate Involvement	Minimal Involvement
<p><i>RULE REVIEW</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>▶ Request written or oral reports, including analysis by legal staff at each meeting on all proposed rules or adoption notices for each agency monitored.</li> <li>▶ Request copies of rules from agencies for legislators' personal review.</li> <li>▶ Seek public comment on rules of concern.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Request brief written description of all rules prior to Committee meetings (from this meeting).</li> <li>▶ Review only topics in Committee that:               <ol style="list-style-type: none"> <li>1) legislators flag as important or of concern; or</li> <li>2) a member of the Committee asks be placed on the EAIC agenda.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>▶ Hear information only on issues that Committee legal staff considers to be out of compliance with statutes or legislative intent.</li> </ul>
<p><i>DRAFT LEGISLATION REVIEW</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>▶ Request reports from agencies on legislative proposals submitted in early 2013 to the Office of Budget and Program Planning. Include panel presentations to familiarize Committee with issues.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Provide time at June and August 2016 meetings, one for initial concept review and the other for follow-up briefings for complex legislation.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Overview of concepts on each item of legislation at final or June meeting.</li> </ul>
<p><i>AGENCY MONITORING</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>▶ Each agency division would give an initial overview presentation.</li> <li>▶ Any agency with further statutory reporting requirements to give an oral report to the EAIC.</li> <li>▶ EAIC members specify follow-up reports on program specifics.</li> </ul>	<p>Basic involvement needed:</p> <ul style="list-style-type: none"> <li>▶ Each agency head would provide a brief overview of activities.</li> <li>▶ Any agency with further statutory reporting requirement would give an oral report.</li> </ul>	
<p><i>HB 142 REVIEWS</i>  <i>A review of the necessity of advisory councils, etc., or reports linked to agencies that EAIC monitors.</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>• Review the 35 advisory councils / reports and advisory groups of all types. Some would just be monitored; others would include a "sunset" review with public comment followed by a vote by the Committee on whether to retain.</li> </ul>	<ul style="list-style-type: none"> <li>• Have presentations on the 13 advisory councils and reports strictly required for review, with public comment, and votes by the Committee on each along with up to 4 other advisory committees from the list on pp. 7-8.</li> </ul>	<ul style="list-style-type: none"> <li>• Based on a briefing paper for each of the 13 statutory advisory councils and reports, review for necessity. Public comment and vote of Committee.</li> </ul>

<b>INVOLVEMENT LEVEL</b>	<b>Most</b>	<b>Moderate</b>	<b>Minimal</b>
<p><b>MONITORING IMPORTANT ACTIVITIES</b> (may be based on member issues -- see below)</p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>• Outline up to 5 topics chosen at the first meeting to be addressed at subsequent meetings.</li> <li>• Include staff-prepared "white papers" on each topic.</li> <li>• Discussion by EAIC.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Outline up to 3 topics chosen at the first meeting to be addressed at subsequent meetings.</li> <li>▶ Staff briefing papers on topics of interest.</li> <li>▶ Discussion by EAIC.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Topics limited to those presented by interested persons who ask to be on agenda.</li> <li>▶ Copies of relevant reports provided to Committee.</li> <li>▶ No staff briefing or "white papers."</li> </ul>
<p><b>MEMBER ISSUES</b> (see also Monitoring Important Activities above)</p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>▶ Each meeting would have 1 member issue on the agenda, with presentation by an identified expert (6 or 7 topics in total).</li> <li>▶ Provide a white paper on designated issues.</li> <li>▶ Draft related legislation.</li> </ul>	<ul style="list-style-type: none"> <li>▶ 4 or 5 member issues would be addressed, with a presentation by an identified expert.</li> <li>▶ Staff to prepare briefing papers or draft legislation as issues arise.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Address no more than 2 member issues as time allows, with staff providing copies of relevant outside reports to EAIC.</li> <li>▶ No staff briefing or white papers.</li> <li>▶ 1 or 2 presentations, if any.</li> </ul>
<p><b>ASSIGNED STUDY: SB 390</b> - reviewing how Department of Labor and Industry sets fees commensurate with costs</p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>▶ Briefing papers (as listed at far right)</li> <li>▶ Clarification by legislative auditor on approach analyzed for "fees commensurate with costs"</li> <li>▶ 3-4 presentations to allow for more input by board members/licensees</li> <li>▶ Public comment opportunity</li> </ul>	<ul style="list-style-type: none"> <li>▶ Briefing papers (as listed at right)</li> <li>▶ Clarification by legislative auditor on approach analyzed for "fees commensurate with costs"</li> <li>▶ 2 presentations</li> <li>▶ Public comment opportunity</li> </ul>	<ul style="list-style-type: none"> <li>▶ Briefing papers highlighting past and proposed "fees commensurate with costs" approaches. Done separately by LSD/LFD staff and the department.</li> <li>▶ 1 presentation</li> <li>▶ Public comment opportunity</li> </ul>
<p><b>ASSIGNED STUDY: HJR 29</b> - reviewing how membership-based health care works, particularly for ambulances</p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> <li>▶ Briefing papers (as listed at right)</li> <li>▶ 3 to 4 panel presentations outlining ambulance concerns, consumer and legal concerns, regulator concerns, and patient care issues.</li> <li>▶ Public comment opportunity</li> </ul>	<ul style="list-style-type: none"> <li>▶ Briefing papers (as listed at right)</li> <li>▶ Two panel presentations from air and ground subscription offerers, insurers, and regulators</li> <li>▶ Public comment opportunity</li> </ul>	<ul style="list-style-type: none"> <li>▶ Briefing papers outlining: federal areas of preemption related to regulating air ambulance service; insurer approaches; cost; and scope of service/ other states' dealings.</li> <li>▶ 1 panel presentation</li> <li>▶ Public comment opportunity</li> </ul>

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

<b>Responsibilities</b>	<b>Time Needed</b>	<b>Total Meeting Hours</b>
Administrative & statutory duties ▶ Rule review ▶ Agency monitoring ▶ Agency legislation review	▶ 10 minutes for rule review at each meeting unless there's concern ▶ Up to 1 hour for each agency monitored ▶ Varies from 20 minutes for 1 agency to an hour-plus	12 to 14 hours (depending on rule review contention and level of monitoring)
▶ HB 142 reviews	▶ 20 minutes to 45 mins. for each (approximately)	Depends on how many chosen for review
		7 to 21 hours
Member issues	Depends on work plan	
Total		10 meetings planned (~70 hrs)

## APPENDIX A

### Member Issues and Possible Emerging Issues

The following table includes suggestions from EAIC members (and staff) and provides space for you to include suggestions for "other" topics of consideration. We'll fill in dates later.

Topic	Possible Activity	Date
<b>Agriculture</b>		
Farm Bill and changes to farm insurance programs -- impact on Montana	<ul style="list-style-type: none"> <li>▶ What are the impacts, if any, from the 2014 Farm Bill?</li> </ul>	
Genetically modified or engineered organisms -- current status in Montana	<ul style="list-style-type: none"> <li>▶ Although the HJR 33 study of GMO impacts on Montana wheat markets did not get through the Legislature, the concern about GMO impacts on trade and some organic farmers has arisen in various legislative sessions. A panel discussion on the pros and cons and concerns may be informative.</li> </ul>	
Trade issues	<ul style="list-style-type: none"> <li>▶ Legislative options to improve grain or other ag trade?</li> </ul>	
Other?		
<b>Finance/Investments</b>		
Banking, especially changes to banks and credit unions in Montana from changes brought by the Dodd-Frank Act	<ul style="list-style-type: none"> <li>▶ What is the home loan situation in Montana? Are foreclosures still a problem for banks? Are new home or small business loans difficult to come by? Has the <i>Morrow v Bank of America</i> case stifled loans or loan discussions? Review impacts from Dodd-Frank mortgage changes (20% down, revisions to what is required for refinancing, bank requirements to retain portion of mortgage) on Montana's housing construction and home sales. Possible panel discussion.</li> </ul>	
How investments in cows, liquor licenses, or other nontraditional items affect business developments in Montana	<ul style="list-style-type: none"> <li>▶ Loans or investments based on a tangible commodity other than land is common. In the last Legislature, topics varied from selling fractional shares of cows (during discussions of the raw milk bill, HB 245) to bankers' interest in the way Montana has quotas for all-beverage licenses.</li> </ul> <p>How lending works outside the normal box would involve a discussion among panelists from the State Auditor's Securities Office and the Commissioner of Banking and Financial Institutions.</p>	
Other?		

<b>Economic Development</b>		
Grant programs and implementation	<p>Review sources and amounts of funds available, uses, and beneficiaries of:</p> <ul style="list-style-type: none"> <li>▶ Big Sky Economic Development Trust Fund</li> <li>▶ Lodging Facility Tax</li> <li>▶ Main Street Montana Program</li> <li>▶ Research and Commercialization Program</li> <li>▶ Wood Products Industry Program</li> </ul>	
Barriers to business entry	<ul style="list-style-type: none"> <li>▶ Lack of financing options may be one barrier to starting a business but another often-cited problem is lack of a qualified workforce. The Economic Affairs Interim Committee might want to look at what state agencies are doing to resolve barriers to business entry, whether those barriers are regulatory or stem from having to meet too many different requirements from too many agencies. One or more panel discussions might be needed to address this topic fully. A presentation on Main Street Montana findings would be incorporated.</li> </ul>	
Ways to improve business regulation (perhaps focus on one industry)	<ul style="list-style-type: none"> <li>▶ One-stop shopping for business applications is an ideal. How well is it working? What businesses are not covered and can they easily be?</li> <li>▶ What business regulations are common among all industries (from alcohol sales to zoonotics)? Can the right and left hands of government find a common bond to prevent duplication and confusion?</li> </ul>	
Other?		
<b>Insurance</b>		
Insure Montana Program & Small Shop Ins. Exchanges	<ul style="list-style-type: none"> <li>▶ What is happening with the Small Business Health Insurance Exchange and what is the wind-down process for Insure Montana?</li> </ul>	
Insurance competition	<ul style="list-style-type: none"> <li>▶ The committee may want to examine competition in the insurance industry, whether related to workers' compensation insurance, medical malpractice insurance, health insurance, or other types of insurance. Would law changes be needed to encourage competition or is lack of population a driving factor?</li> </ul>	
Other?		
<b>Livestock</b>		
Budget issues	<ul style="list-style-type: none"> <li>▶ Review Dept. of Livestock budget and structural balance for each division quarterly. HB 2 requires an annual review. Hold hearings on Dept. of Livestock budget to determine if efficiencies can be gained in any area.</li> <li>▶ Review the Board of Milk Control budget/work products.</li> <li>▶ Review uses of per capita funding and brand income.</li> </ul>	



Brucellosis and the Designated Surveillance Area	<ul style="list-style-type: none"> <li>▶ Follow up on work of the 2009-2010 EAIC regarding the Board of Livestock and the Department of Livestock actions related to brucellosis in the areas near Yellowstone National Park. Are veterinarians appropriately paid for the brucellosis checks?</li> <li>▶ Schedule at least one presentation regarding the Interagency Management Bison Plan and the work of multiple agencies related to bison and whether any of this work is applicable to impacts of elk migration.</li> </ul>	
Other?		
<b>Employment / Unemployment / Labor</b>		
Unemployment issues	<ul style="list-style-type: none"> <li>▶ If the state's unemployment rate is lower than the national average but the rate is higher on Indian reservations, is the state doing all it can to achieve better employment opportunities in high-poverty areas? Are job service offices located in the most beneficial sites and does the Legislature have any say in locations or just in personnel and staffing?</li> </ul>	
Workforce development	<p>Reports on:</p> <ul style="list-style-type: none"> <li>▶ implementation of workforce aspects of Medicaid expansion</li> <li>▶ incumbent worker training</li> <li>▶ foreign labor certification program</li> <li>▶ activities aimed at improving ways to meet job demands in the Bakken</li> </ul>	
Labor negotiations for state employees	<ul style="list-style-type: none"> <li>▶ Although HJR 28 did not pass the Legislature, the Committee might want to review options for changing the current approach to state employee pay plan negotiations.</li> </ul>	
Other?		
<b>Professional / Occupational Licensing (beyond SB 390 "fees commensurate with costs" study)</b>		
Monitoring of medical assistance programs	<ul style="list-style-type: none"> <li>▶ Follow up on licensing boards' medical assistance programs (from work done in 2009-2010) and implementation by the four boards participating in the programs: Board of Medical Examiners, Board of Dentistry, Board of Nursing, Board of Pharmacy. Are other boards participating and under what authority?</li> </ul>	
Monitor board solvency and changes allowed in boxing program	<ul style="list-style-type: none"> <li>▶ Determine which boards need additional oversight or monitoring based on budget, numbers of complaints, other? Are the changes in SB 401 to the boxing program achieving more solvency for that program?</li> </ul>	

<p>Competition among board-regulated industries in light of new U.S. Supreme Court ruling - <i>North Carolina Board of Dental Examiners v. the Federal Trade Commission</i></p>	<ul style="list-style-type: none"> <li>▶ Denturists complain that dentists limit their scope of practice, while dentists say that denturists are not trained as well as dentists so they ought to be limited. The U.S. Supreme Court case -- <i>North Carolina Board of Dental Examiners v. the Federal Trade Commission</i> -- found that a licensing board comprised primarily of members of an industry might be anticompetitive. Many of Montana's licensing boards fit that description (although the 5 dentists on the Board of Dentistry comprise just half of the membership with the remaining members as 3 dental hygienists, 1 denturist, and 1 public member). Do boards need to be examined in light of this decision to make sure one profession's licensees do not predominate?</li> </ul>	
<p>Other?</p>		
<p><b>Workers' Compensation</b></p>		
<p>Monitor implementation of SB 123 - Montana State Fund under State Auditor's Office</p>	<ul style="list-style-type: none"> <li>▶ SB 123 takes effect Jan. 1, 2016. What are the impacts to date? What changes are in the works for Montana State Fund?</li> </ul>	
<p>Subrogation</p>	<ul style="list-style-type: none"> <li>▶ The Governor's veto message said that the Labor-Management Advisory Council on workers' compensation would continue to look at the problems cited in testimony on the subrogation bill, SB 288, although not from the subrogation standpoint but from the perspective of experience modification changes resulting from damages caused by third parties. A panel discussion mirroring the LMAC work is one possibility. Another is simply a report from LMAC.</li> </ul>	
<p>Workplace safety</p>	<ul style="list-style-type: none"> <li>▶ Follow up on the work of WorkSafeMT and reports from OSHA regarding private-sector contacts whether for citations or recommended changes.</li> </ul>	
<p>Impact of claim closure from HB 334 in 2011 session</p>	<ul style="list-style-type: none"> <li>▶ HB 334 enacted by the 2011 Legislature provided that workers' compensation claims would end after 5 years unless special circumstances apply. The 5-year period for the first batch of claim closures on injuries that occurred on or after July 1, 2011, hits as of July 1, 2016. At a meeting after that date the Department of Labor and Industry and work comp insurers could be asked to report on impacts based on this first batch of claims.</li> </ul>	
<p>Other?</p>		

## Appendix B

### Study Plan for Senate Bill No. 390 - A Study of Fees Commensurate with Costs

Between 2011 and 2014, the Economic Affairs Interim Committee reviewed licensing boards under a directive from HB 525 in the 2011 session. The review included an overview of each board, its functions, its licensing fees, the number of licensees, the number of complaints, and the costs. In addition, the 2011-2012 EAIC authorized a survey to determine licensee and public attitudes toward the licensing boards. The survey provided an opportunity for comment on the boards. In the 2011-2012 interim the Committee heard from members of each of the licensing boards and also provided an opportunity for public comment on the boards before voting as to whether the board ought to be retained or not. All boards were retained.

What the survey and reviews indicated were general satisfaction with the role of the licensing boards but some concern over the budget and costs of licensing fees. The study required under SB 390 is intended to provide a more in-depth look at how those budgets and fees are set. SB 390 listed the following required examinations but allowed additional areas of study:

- look at fees incurred, calculated, or charged by the Department of Labor and Industry that are:
  - (i) associated with licensing individuals, including initial licensing, reciprocity, and renewal;
  - (ii) related to compliance, including inspections and audits; and
  - (iii) related to any legal or enforcement actions;
- compile costs by the department that are:
  - (i) direct and indirect costs;
  - (ii) standardized administrative service costs for license verification, duplicate licenses, late penalty renewals, license lists, and other administrative service costs;
  - (iii) administrative service costs not related to a specific board or program; and
  - (iv) legal costs;
- look at how DLI determines whether fees for administrative services are commensurate with the costs of the services provided, including whether boards have to pay indirect costs for a portion of administrative services regardless of whether the boards benefit from those services; and
- determine whether the services provided add value to the work of the boards and contribute to public safety.

#### **Preliminary study approach:**

The preliminary study document would include:

- a history of how the Department of Labor and Industry has developed its current "fees commensurate with costs" structure with information on how the Department of Labor and Industry plans to implement charges under the expanded list of components in SB 79 (for example 37-1-134 prior to revisions enacted in SB 79 said the department was to set board fees "commensurate with costs for licensing, including fees for initial licensing, reciprocity, renewals, applications, inspections, and audits". The SB 79 approach is for fees "that provide the amount of money usually needed for the operation of the board for services, including but not limited to..." the activities above but also investigations and discipline, a much broader approach that is intended to help with audit compliance and more closely match what board operations entail.
- examples based on past materials delivered to the EAIC on board costs and comments to fee increases from various boards. These comments include 7-pages of comments to a recent fee increase for the Board of Sanitarians.
- questions to Committee members to determine what additional information they want regarding costs of boards. For example, the Committee has two main options for looking at fee setting. One is to determine if the Department is more generous with what is assessed for indirect costs (using overall Department staffing as a factor) than are other Departments with administratively attached boards. This would be a top-down determination of a budget rather than a bottom-up approach, which would consider only actual operational costs and then take a proportion of that amount for

<b>Board of Sanitarians Comparative Budget for conference call v. face-to-face meeting</b>			
	<b>amount</b>	<b>cost</b>	<b>notes</b>
Staff meeting	8 hours/134	1072	estimate based on agenda items suggested from previous meeting rate includes EO Attorney and Administrativr Specialist
Staff preparation	10 hours/134	1340	estimate based on agenda items suggested from previous meeting rate includes EO Attorney and Administrative Specialist
member per diem	4/50.	200	
Travel	1684/.56	943.04	
hotel	3/83.	249	
meals	3/17. + 3/12	87	
communications	1/11.02+.0844/min	11.02	
lunch	8/10.	80	
<b>Total</b>		<b>3982.06</b>	

indirect costs. Some board members and licensees have complained that they have little room to cut budgets and cannot determine the number of hours an attorney or other specialist spends on a task (see the example budget provided to the Board of Sanitarians, above, comparing the cost of a meeting by conference call versus face to face. The example shows the staff meeting and preparation both requiring the executive officer, an attorney, and an administrative specialist at a rate of \$134 an hour.

- a review of materials provided to the Appropriations/Senate Finance and Claims Committees to determine how much detail these committees receive during the budgeting process and, if possible, see whether board and department roles are separated out. This helps determine department flexibility to move appropriation authority.
- a look at how often appropriation authority is transferred among boards, for what purposes, how authorized, and whether boards have been detrimentally affected; and
- 
- a review of Audit Committee financial reports related to licensing boards.

The study would include discussions with Department of Labor and Industry budgeting personnel, the administrator of the Business Standards Division, and any board members who wish to meet (in person or via teleconference) with the EAIC related to their budget process.

The study also would include:

- a comparison with other Montana agencies that staff similar administratively attached boards or councils to determine whether costs are equivalent. In particular, the comparison would include a review of how the Department of Justice assesses costs for attorneys in comparison with how the Department of Labor and Industry does the same assessments.
- sample costs from other states' licensing boards to provide a regional perspective on how licensing costs are determined for similar activities.

**Deliverables:**

A final product would:

- show the rationale used by the Department of Labor and Industry to determine direct and indirect costs for licensing boards;
- provide a budget analysis of indirect costs assessed by the Department of Labor and Industry to

- licensing boards and to its other units to determine revisions, if any, over time;
- provide a perspective on Montana cost assessments in comparison with other state licensing boards in the region;
- if legislators determine a need, recommend ways to increase transparency for the boards and licensees regarding their budgets; and
- draft legislation, if any is needed, to clarify how direct and indirect costs are to be developed, whether contingency authority is appropriate for a board individually or for the department, and whether the concept of administratively attached agencies needs to be refined in general.

## Appendix C

### Study plan for HJR 29 - A Study of Membership-based Health Care, Including Membership-based Air Ambulances

Under existing law, 50-6-320, MCA, private air ambulances may solicit memberships and accept membership fees but are not considered an insurer, a health carrier, a health service corporation, or a health maintenance organization if the insurer is licensed as an emergency medical service under 50-6-306, has been in operation in Montana for at least 2 years, and has submitted to the Department of Public Health and Human Services that it is compliant with 50-6-320, MCA. When HB 177 came before the House Business and Labor Committee in the 2015 session to revise the 2-year experience factor in 50-6-320, MCA, that committee heard testimony from various people about concerns that 50-6-320 did not provide consumer protection and had created possible unintended consequences because of confusion about membership-based services and ambulance services otherwise licensed under Title 50, chapter 6, part 3. The result of the concerns was that HB 177 did not pass and HJR 29 was created.

The issues included in HJR 29 regarding this study seek to address five main topic areas:

#### ***Costs and data collection:***

- How many membership-based air and ground ambulance services operate in Montana, where are they located, what are their service areas, and how much do they charge for membership (if the costs are available)?
- What are member and nonmember billing rates, if available, and the billing practices for membership-based air and ground ambulances, including rates for flights to regional medical centers, common out-of-network insurance reimbursement rates, and balance-billings amounts, if available?

#### ***Operational data regarding membership-based or subscription services:***

- What are the terms of reciprocity agreements and the determining factors for reciprocity among membership-based ambulance services and do hospitals have agreements with specific membership-based ambulance services?
- What are the estimated financial impacts (on consumers primarily but health care providers or insurers as well) of membership-based health services, which would include an estimate of out-of-pocket costs for members as compared with nonmembers?

#### ***Insurance-related issues***

- Do insurers in high-deductible plans differentiate coverage for membership-based ambulance services differently than in other types of plans and explain that clearly to policyholders?
- Can flex spending be used to cover the cost of membership?
- Do insurers try to include membership-based service providers in their preferred provider networks?
- Do insurers work with their policyholders to help pay the costs incurred by a nonmember for services by membership-based ambulance providers?

#### ***Regulation***

- To whom does a complaint go if a membership-based ambulance service ignores or finds unreasonable an effort to make arrangements with other air ambulance providers to ensure maximum geographic coverage as provided in 50-6-320(3)?
- Is more regulation required in other states and what impacts have membership-based health care services, including air and ground ambulances, had in other states?
- Within the constraints of federal preemption under the Airline Deregulation Act, are other state laws requiring licensure of private ambulance services or exempting them from regulation other than through licensing?

#### ***Health Care Industry Impacts***

- Are there impacts of membership-based health services on the health care system and health insurance companies?
- Has the ease of transferring critical patients in need of specialized services resulted in hospitals changing their business plans (becoming less likely to care for some patients) or putting some hospitals at financial risk because patients who face higher-than-expected medical bills because of

- transport costs end up not paying the first hospital's bills on time?
- Are hospitals at risk for calling on transport services in critical situations if the consumer is under duress for agreeing to transport by an entity not covered by insurance?
- Are insurers at risk if using an in-network provider results in a delay in service that impacts a patient's health?

**Preliminary study approach:**

Prior to any presentations to the EAIC, stakeholders would provide information on the subject areas listed above. A meeting among stakeholders also would help to identify suggestions for further study, study resources, and Committee presentations. Stakeholders include the Department of Public Health and Human Services, which licenses private air and ground ambulances, including membership-based services, through its EMS and Trauma Systems unit, and the State Auditor's Office, which handles insurance-related complaints and has received complaints on balance-billed costs assessed to nonmembers who have had family members flown by membership-based air ambulances to large medical centers out of state. Other stakeholders include the Department of Justice's Consumer Protection Office; all air and ground ambulance services, whether membership-based or not; and insurers, including state, university, and other public entities that provide insurance for their employees.

Other preliminary activity includes:

- compiling available information on ambulance charges, insurance reimbursements, and balance billing for membership-based and other types of ambulance services;
- determining whether state regulation affects prices and costs to consumers; and
- reviewing membership-based ambulance services in other states and any research on the effects of those services on health care providers and health care services.

**Deliverables:**

- Briefing papers providing background information on costs, operational data regarding membership or subscription services, insurance-related information, regulation, and health care industry impacts plus research from other states, if available.
- Panel presentations indicating:
  - pros and cons of regulation, and by whom, as perceived by stakeholders;
  - insurers' perspectives of membership-based services and how best to recognize and deal with them as a noninsurance, separate product; and
  - differences between membership-based and other types of ambulance services from the perspectives of ambulance providers, consumers, and emergency room personnel who may be calling for transport to a larger hospital.