

Economic Affairs Interim Committee Draft Work Plan for the 2009 - 2010 Interim

Prepared by
Pat Murdo, Research Analyst
Legislative Services Division

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Summary

This Work Plan for the 2009-2010 Economic Affairs Interim Committee (EAIC) contains an introduction regarding EAIC duties and a proposed schedule in which to accomplish those duties. The subsequent sections of the Work Plan provide detail for the statutory duties, outline plans for two studies assigned by Legislative Council to the EAIC, and describe additional options that EAIC members have recommended pursuing. EAIC members are asked to review all activities with their associated workloads in mind and a recognition of limited staff resources. A matrix provides options for maximum, medium, and minimal involvement on issues before the EAIC, and a mix of activities is optimal.

EAIC members may choose to revise the Work Plan at any time, taking into consideration budget and timing. Members are asked to adopt a work plan within the first two meetings -- preferably at the first meeting.

I. *Introduction*

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

- reviewing rules of certain executive agencies under the EAIC's purview¹;
- monitoring of certain executive agencies' programs and preliminary review of those agencies' draft legislation; and
- studying and reporting to the next Legislature on any issues assigned to the EAIC by the Legislative Council. Legislative Council assigned two studies to the EAIC for this interim: SJR 14, on state laboratory efficiencies, and SJR 30, on workers' compensation.

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

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

In addition to the traditional duties assigned to interim committees, the EAIC presiding officer has the responsibility to name two EAIC members as liaisons to the State Fund and two EAIC members (one from each party), with vice presiding officer concurrence, to the Rail Service Competition Council.

Budget and Meeting Dates

The EAIC budget for the 2009-2010 biennium is \$31,685. This covers members' travel and per diem costs for meetings, photocopying costs, supplies, communications, and contracted services. Instead of having eight meetings as projected by the budget (six 1-day meetings and two 2-day meetings), staff has proposed two 1-day meetings and four 2-day meetings. The smaller number of meetings is to offset the increased number of 2-day meetings. Total meeting time would be about 10 days, the same as for the budget projection for six 1-day meetings and two 2-day meetings. (Two-day meetings are slightly more costly than 1-day meetings. None of these meetings are indicated for out-of-town locations, although that may be an issue for EAIC members to discuss. Out-of-town meetings typically cost more than meetings in Helena.)

The proposed schedule is for a July 8 organizational meeting with overviews for assigned studies, followed by five meetings.

<u>General Meeting Topics</u>	<u>Proposed Date</u>
Organizational meeting	July 8, 2009 (Wed.)
SJR 30 background meeting	September 8-9, 2009 (Tues./Wed.)
SJR 30, Agency Monitoring, SJR 14 background	January 19-20, 2010 (Tues./Wed.)
SJR 30, SJR 14, Agency Monitoring	March 31-April 1, 2010 (Wed./Thurs.)
Legislation Review for Studies, Special Topics	May 26, 2010 (Friday)
Legislation Review, Agency Monitoring	August 19-20 (Thurs./Fri.)

The EAIC budget also covers the costs for two members as liaisons to the State Fund. The Rail Service Competition Council members from EAIC are in the Department of Transportation budget.

The study resolutions require that interim committee work, including final reports, recommendations, and any proposals for legislation, be completed by September 15, 2010. In order to get the final report completed before legislation is due to be drafted, staff has suggested making the final meeting in August 2010.

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.

Duties

A. Rule Review

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

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

Action item: EAIC members are requested to choose the level of involvement they want regarding review of agency rules. (See Matrix below.)

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:

- Department of Agriculture
- Department of Commerce
- Department of Labor and Industry
- Department of Livestock
- Office of the State Auditor and Insurance Commissioner
- Governor's Office of Economic Development
- State Fund (pending agreement with the State Administration and Veterans' Affairs Interim Committee -- see footnote 1).

Action item:

- choose level of involvement in agency monitoring (see Matrix below);
- decide whether to request a Memorandum of Agreement with the State Administration and Veterans' Affairs (SAVA) Committee to monitor the Montana State Fund;
- decide whether to request a Memorandum of Agreement with SAVA to monitor the Banking Division.

Explanation: The EAIC may choose levels of involvement in agency monitoring. See Matrix. In addition, staff recommends continuing the Memorandum of Agreement with SAVA to monitor the Montana State Fund, particularly because the EAIC has been assigned the study of workers' compensation issues under SJR 30. Also, staff recommends including within the monitoring scope the Banking Division, which is within the purview of the SAVA Committee because the Banking Division is under the Department of Administration, which is monitored by SAVA. Most of the legislation implemented by the Banking Division goes through the House Business and Labor Committee and the Senate Business, Labor, and Economic Affairs Committee, which is a reason for EAIC members, who are often on those committees, to continue monitoring issues with which they are already familiar.

In past interims, the agencies typically have provided an overview report to the EAIC. Agencies involved in a study resolution have spent more time with the EAIC than agencies not involved in a study resolution. The question for the EAIC members is: how much time to devote in the work plan to agency monitoring?

C. Draft Legislation Review

Draft legislation review is intended for both 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 "requestor" and "requested by". The requestor must be a legislative entity. The "requested by" entity may be a state agency. There is sometimes confusion when a legislative committee is seen as the requestor because that committee is then seen as endorsing the bill, when in fact the requestor is enabling drafting of the legislation and is not taking a stand on the contents of the bill. An interim committee may

choose not to request drafting of a particular bill requested by an agency, which means only that the agency has to find a legislator who will introduce the bill (and the committee then generates some perhaps unnecessary ill will). Early review by legislators also allows for outside suggestions that agencies may or may not take under consideration.

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

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

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

The 2007-2008 Economic Affairs Interim Committee handled the following agency bill requests:

Department of Agriculture	6 (4 bills became law; 1 resolution filed)
Department of Commerce	2 (2 bills became law)
Combined Commerce/Agriculture request	2 (1 bill became law)
Department of Labor and Industry	9 (9 bills became law)
Department of Livestock	3 (3 bills became law)
State Auditor and Insurance Commissioner	13 (8 bills became law, 4 drafts canceled)
Governor's Office of Economic Development	0
State Fund	0
Total:	35 (27 bills became law, 1 resolution filed with the Secretary of State's office, 4 drafts were canceled, 3 bills died in the process)

D. Maintain Adequate Records of Activities

Minutes of meetings this interim will be shorter than they have been in the past, with details available through the audio recording. Staff relies on communication using both emails and letters. If an EAIC member prefers communication in only one form, then the staff will adjust to match preferences. Information will be posted to the committee website, and legislators may refer constituents or interested parties to the website for information or to sign up for electronic notification regarding EAIC activities. That website is:

http://leg.mt.gov/css/Committees/Interim/2009_2010/Economic_Affairs/default.asp.

III. *Study Activities*

The Legislative Council on May 27, 2009, assigned Senate Joint Resolution No. 14, a study of state laboratories to determine potential efficiencies, and Senate Joint Resolution No. 30, a study of workers' compensation, to the Economic Affairs Interim Committee.

SJR 30 received the top ranking in a postsession poll of legislators regarding which studies they preferred to see done, given limited staff resources. SJR 14 ranked at number 14 out of 17 study resolutions approved by the Legislature. The draft work plans for each are described below.

- **SJR 14** -- Introduced by Sen. Cliff Larsen. SJR 14 requests:
 - 1) Review existing state laboratory facilities, including those used for testing related to wildlife, agriculture, livestock, and public health and University-based facilities, such as the veterinary diagnostic lab and the Montana seed lab at Montana State University-Bozeman.
 - 2) Identify areas of potential overlap or similarity in testing procedures (this could also include similarity in equipment used, along with current use levels of the equipment).
 - 3) Analyze the pros and cons of consolidation.
 - 4) Analyze results of consolidation in other states (e.g., Michigan and New Mexico).
 - 5) Identify potential cost savings of consolidating two or more laboratories.
 - 6) Identify potential arrangements for effectively sharing laboratory space.

The work plan would include providing the review of existing facilities to the EAIC prior to a determination of the development of the rest of the study to determine which facilities have the broadest potential for consolidation or at least further review. This information would be gathered prior to the EAIC's third meeting, and further action would be requested of the Committee at that time.

Questions for the EAIC to consider in determining its scope of involvement include:

- ▶ Should the study be broad and encompass all potential areas of consolidation or shared efforts, involving all types of agencies and discussions about potential consolidation or shared resources and personnel?
- ▶ Should the study be narrow and review one type of issue, such as brucellosis, that involves more than one agency and more than one laboratory? A narrow study would serve as a prototype for further analysis at other times.

Both committee time and staff time are considerations for the options on conducting this study.

Possible products, hinging on the level of the EAIC's involvement, include:

- 1) Background paper on existing facilities, equipment, and potential for consolidation.
- 2) Background paper on the results of consolidation in other states.

3) Background paper on contracting procedures with outside laboratories and any recommendations for efficiencies if more than one agency uses the same outside laboratory.

4) Panel discussions to elicit suggestions from extension agents, laboratory officials, and other stakeholders regarding consolidation or potential efficiencies.

5) Summary report, based on panel discussion and public comment, of pros and cons of consolidation, shared space options, and shared equipment options.

6) Possible legislation.

- **SJR 30** -- Introduced by Sen. Ryan Zinke, this resolution is designed to look at cost drivers for premiums and the operation and structure of the Montana State Fund. A proposed schedule for the study, based on whatever meeting dates the EAIC chooses and its level of involvement, includes:

- ▶ ***Prior to first meeting:***

- Provide background information on past studies and reports on fraud experiences (to be provided by State Fund, self-employed group, and a private insurer).

- ▶ ***First meeting***

- Provide a workers' compensation 101 class overview.
- Hear from the Labor Management Advisory Council about its activities.
- Hear from a representative of the National Council on Compensation Insurance regarding comparisons between Montana and other states on types of claims and frequencies, including by occupation.
- Determine goals for the study. Is the purpose:
 - Meaningful premium rate reduction?
 - Rates lower than neighboring states (to encourage relocation of businesses that have an ability to relocate)?
 - Changes to existing structures to reflect insurance industry views?
 - Changes in policy from a worker perspective?
 - Changes in policy from an employer perspective?

- ▶ ***Second meeting***

- Review premium cost drivers, including: medical costs and fee schedules, duration of benefits (both medical and indemnity), return-to-work issues, safety, case law, safety net concerns (including policies that are different in Montana from other states, such as the consideration of tips as wages for compensation purposes), presumptive illnesses considered to be occupational diseases, and benefits (including the portion of medical benefits that is paid out in attorney fees).
- Review how rates are set and the role of the State Auditor in rate review of private insurers.
- Review issues related to reserves and surpluses.

- ▶ ***Third meeting***

- Review structure and operations of Montana State Fund, including its role as a guaranteed issue plan or insurer of last resort and its guaranteed role as insurer for state agencies' workers' compensation purposes. As part of

the latter topic, review any changes the Department of Administration is taking under HB 126 to coordinate state purchases of workers' compensation insurance.

- Review the three-tiered structure in Montana: self-insurers as Plan 1 participants, private insurers as Plan 2 participants, and Montana State Fund as the Plan 3 participant.
 - Review how other states provide an option to employers required to obtain workers' compensation when there is no insurer of last resort -- for example through a shared risk pool. Also look at Wyoming and North Dakota as states not part of the NCCI review to determine comparability with Montana.
 - Determine what legislative changes would accomplish the goals outlined at the first meeting. Propose legislation for discussion purposes.
- ▶ ***Fourth and subsequent meetings***
- Review proposed legislation and seek public comment.
 - Determine what, if any, legislation the committee might sponsor.

IV. *Other Interim Activities*

The EAIC's opportunity to "accumulate, compile, analyze, and furnish information" related to its assigned duties and related to existing or prospective relevant legislation means that guest speakers may be scheduled to provide information on relevant topics. Members may propose investigation of emerging issues at any time during the interim. However, staff resources are limited, so additions in a work plan must be accompanied by deletions to maintain balance.

V. *Member Issues*

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

VI. *Staff Recommendations for Additional Activities*

If additional issues arise, staff will inform members for their discussion and determination regarding further background information or action. Staff recommends requesting a memorandum of agreement between the EAIC and SAVA to monitor State Fund and the Banking Division, both of which are assigned administratively to the Department of Administration and as such are monitored by SAVA but deal with issues typically before the Senate and House Business and Labor Committees.

Staff also has included in Appendix B a letter from the Senate Agriculture, Livestock, and Irrigation Standing Committee regarding patented plants, residual seeds, and other issues addressed by House Bill No. 445. The Committee may want to monitor or otherwise address the

March 31-April 1, 2010	Studies Member Issues Rule Review	SJR 30 Panels, Legislation Discussion *SJR 14 - Panel and Issue Papers -- --
May 26, 2010	Studies Member Issues Rule Review Monitoring	Legislation Review, if any -- --Reports from Historic Preservation Cmsn. --Member reports for State Fund/ Rail Council
August 19-20, 2010	Studies Rule Review Agency Bills	Wrap up Review bills for all agencies, forward for drafting

VIII. *Web Resources*

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

Legislative Services: <http://leg.mt.gov/css/default.asp>

IX. *Matrix for Prioritizing the Focus of Meetings*

The following table provides a brief description of the Committee's involvement over the course of the interim. The columns provide members with options for allocating their time. It is anticipated that choosing the most involvement for each activity will seriously tax the EAIC's time, staff resources, and budget. As an estimate, the table is intended to be flexible, providing a visual approach to time allocation.

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"> • Request a written or oral report by legal staff at each meeting on all proposed rules or adoption notices for each agency monitored; or • Request copies of rules from agencies for legislators' personal review. • Seek public comment on rules of legislative concern. 	<ul style="list-style-type: none"> • Request written, one-sentence description prior to committee meetings of all rules (from this meeting on). • Review in committee only topics that: <ol style="list-style-type: none"> 1) legislators flag as important or of concern; or 2) a member of the committee has asked be placed on the EAIC agenda. 	<ul style="list-style-type: none"> • Hear information only on issues that Committee legal staff considers to be out of compliance with statutes or legislative intent.
<p><i>AGENCY MONITORING</i></p> <p><i>Chosen option</i></p>	<ul style="list-style-type: none"> • Each agency would give a 30-45 minute presentation at one or more meetings. • Any agency with further reporting requirements in statute would provide an oral report to the EAIC. • EAIC members would specify follow-up reports on program specifics. 	<ul style="list-style-type: none"> • Each agency would provide a 20-minute presentation. • Any agency with reporting requirements in statute would provide an oral report to the EAIC. • EAIC members could designate subjects on which they would like a report. 	<ul style="list-style-type: none"> • Agencies would introduce staff and present an overview of agency functions in a 10-15 minute presentation. • Any agency with further reporting requirements in statute would provide an oral report to the EAIC.
<p><i>DRAFT LEGISLATION REVIEW</i></p> <p><i>Chosen option</i></p>	<p>Work throughout the interim with agencies on potential legislative proposals, using presentations to help members become familiar with issues.</p>	<p>Provide time at two meetings for initial concept review. The second meeting would allow for follow-up briefings and comments if an agency requests complex legislation.</p>	<p>Overview of concepts at final meeting on each piece of legislation presented.</p>
ACTIVITY	Most Involvement	Moderate Involvement	Minimal Involvement

<p>ASSIGNED STUDY - SJR 14</p> <p><i>Chosen option</i></p>	<p>--Focus on and analyze broad range of labs & efficiencies in staffing, equipment use, and space plus look at contracting efficiencies</p> <p>--Tours of 2-4 facilities</p> <p>--1 or 2 panel discussions/public comment</p> <p>--Briefing papers, including overview of all labs</p> <p>--Committee would review recommendations for necessary legislation at 5th and 6th meetings</p> <p>500+ hours</p>	<p>--Focus on and analyze 2 or 3 topics that overlap, either in staffing, equipment, or space</p> <p>--1 panel discussion/public comment</p> <p>--Briefing papers, including overview of all labs</p> <p>--Committee to choose among options for legislation, if any, and review at 2 meetings.</p> <p>~400 hours</p>	<p>--Focus on and analyze 1 topic area (for example, brucellosis) and potential efficiencies in staffing, equipment, or space. Use as possible pilot project.</p> <p>--Briefing papers, including overview of all labs</p> <p>--Discussion at 1 meeting on legislation.</p> <p>~275 hours (0.1 FTE)</p>
<p>ASSIGNED STUDY - SJR 30</p> <p><i>Chosen option</i></p>	<p>--Presentations to Committee at 4-5 meetings.</p> <p>--Proposed legislation for discussion purposes, involving panel discussions</p> <p>--Committee would review suggestions, seek additional public comment, and request legislation, if any.</p>	<p>--Panel presentations at 2-3 meetings.</p> <p>--Staff white papers</p> <p>--Committee would review options and request bill drafts, if any.</p>	<p>--Committee would request Labor-Management Advisory Council and staff to provide reports on subjects chosen by committee and work with stakeholders to develop legislation for Committee review (1-2 meetings).</p> <p>--Committee would review report and legislation.</p>
<p>MONITORING IMPORTANT ACTIVITIES</p> <p><i>Chosen option</i></p>	<p>--Outline up to 5 topics chosen at the first meeting to be addressed at subsequent meetings.</p> <p>--Include staff-prepared "white papers" on each topic.</p> <p>--Discussion by Committee</p>	<p>--Outline up to 3 topics chosen at the first meeting to be addressed at subsequent meetings.</p> <p>--Staff prepares briefing papers on topics of interest.</p> <p>--Discussion by Committee.</p>	<p>--Topics limited to those presented by interested persons who ask to be on agenda.</p> <p>--Copies of relevant reports provided to Committee. No staff briefing or "white papers".</p>
<p>MEMBER ISSUES</p> <p><i>Chosen option</i></p>	<p>--Identify member issues at the first meeting. Request presentations and develop "white paper" on the issues.</p> <p>--Develop related legislation.</p>	<p>--Instruct staff to research issues and prepare briefing papers as issues arise.</p>	<p>--Address member issues as time allows, with staff providing copies of relevant outside reports to Committee. No staff briefing or "white papers".</p>
<p>STAFF Recommendations</p> <p><i>Chosen option</i></p>	<p>Incorporate ongoing issues into regular schedule after discussion with presiding officer.</p>	<p>Provide background information in packets.</p>	<p>Make information available if time permits.</p>

Appendix A:

The following issues and topics represent suggestions from Economic Affairs Interim Committee members (and staff) for issues that might be addressed in the 2009-2010 interim outside of the regular committee activities and assigned studies. Options include presentations, studies, and issue briefs.

Topic	Possible activity	Date
Unemployment issues, particularly related to stimulus efforts	Reports from Dept. of Labor and Industry, Chamber of Commerce	
Monitoring of boards, particularly of the assistance programs for medical professionals	Reports from relevant medical assistance programs and boards at the Dept. of Labor and Industry and representatives of appropriate professional associations	
Agriculture issues related to patented plants and HB 445	Followup with Dept. of Agriculture on letters from the Standing Senate Agriculture, Livestock, and Irrigation Committee requesting work on patented plants, residual seeds, and related issues in interim.	
Health care issues	Followup as related to State Auditor's Office -- not to conflict with study by Children, Families Interim Committee	
Credit card issues and payday lending	Followup on federal legislation regarding changes affecting credit cards. Include look at payday lending. (Memorandum of Agreement with SAVA would be recommended)	
Mortgage banking concerns	This would require getting Memorandum of Agreement with SAVA to monitor Banking Commissioner's implementation of mortgage banking laws. Followup to review federal government's reaction to Montana implementation of SB 351.	
Workforce development	Followup on incumbent worker training, other workforce issues	
Wood industry revolving loan program	Followup on implementation of HB 669, creating a distressed wood products industry revolving loan account within the Dept. of Commerce	
Other?		

Appendix B