



STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE: SUMMARY OF 2017-18 ACTIVITIES

November 2018
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FINAL REPORT TO THE 66TH MONTANA LEGISLATURE

STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE MEMBERS

Before the close of each legislative session, the House and Senate leadership appoint lawmakers to interim committees. The members of the State Administration and Veterans' Affairs Interim Committee, 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 in order to comply with 2-15-155, MCA.

Senate Members

Sue Malek (D), Presiding Officer
Missoula, MT

Doug Kary (R), Vice Presiding Officer
Billings, MT

Dee Brown (R)
Hungry Horse, MT

Frank J. Smith (R)
Poplar, MT

House Members

Denise Hayman (D)
Bozeman, MT

Forrest Mandeville (R)
Columbus, MT

Wendy McKamey (R)
Great Falls, MT

Kathy Swanson (D)
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This report is a summary of the work of the State Administration and Veterans' Affairs Interim Committee during the 2017-18 interim. The committee did not have an assigned study. To review additional information, including audio minutes, and exhibits, visit the Legislative Branch website at www.leg.mt.gov and navigate to the 2017-2018 State Administration and Veterans' Affairs home page.

The following statutes govern the committee's activities:

5-5-202. Interim committees. (1) During an interim when the legislature is not in session, the committees listed in subsection (2) are the interim committees of the legislature. They are empowered to sit as committees and may act in their respective areas of responsibility. The functions of the legislative council, legislative audit committee, legislative finance committee, environmental quality council, state-tribal relations committee, and local government committee are provided for in the statutes governing those committees.

(2) The following are the interim committees of the legislature:

- (a) economic affairs committee;
- (b) education committee;
- (c) children, families, health, and human services committee;
- (d) law and justice committee;
- (e) energy and telecommunications committee;
- (f) revenue and transportation committee;
- (g) state administration and veterans' affairs committee; and
- (h) water policy committee.

(3) An interim committee, the local government committee, or the environmental quality council may refer an issue to another committee that the referring committee determines to be more appropriate for the consideration of the issue. Upon the acceptance of the referred issue, the accepting committee shall consider the issue as if the issue were originally within its jurisdiction. If the committee that is referred an issue declines to accept the issue, the original committee retains jurisdiction.

(4) If there is a dispute between committees as to which committee has proper jurisdiction over a subject, the legislative council shall determine the most appropriate committee and assign the subject to that committee. If there is an entity that is attached to an agency for administrative purposes under the jurisdiction of an interim committee and another interim committee has a justification to seek jurisdiction and petitions the legislative council, the legislative council may assign that entity to the interim committee seeking jurisdiction unless otherwise provided by law.

5-5-228. State administration and veterans' affairs interim committee. (1) The state administration and veterans' affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and, unless otherwise assigned by law, the entities attached to the agencies for administrative purposes:

- (a) department of administration, except:

- (i) the state compensation insurance fund provided for in 39-71-2313, including the board of directors of the state compensation insurance fund established in 2-15-1019;
 - (ii) the state tax appeal board established in 2-15-1015; and
 - (iii) the division of banking and financial institutions;
- (b) department of military affairs; and
 - (c) office of the secretary of state.
- (2) The committee shall:
- (a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study and evaluate the equity and benefit structure of the state's public employee retirement systems;
 - (b) establish principles of sound fiscal and public policy as guidelines;
 - (c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles; and
 - (d) publish, for legislators' use, information on the public employee retirement systems that the committee considers will be valuable to legislators when considering retirement legislation.
- (3) The committee may:
- (a) specify the date by which retirement board proposals affecting a retirement system must be submitted to the committee for the review pursuant to subsection (1); and
 - (b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request.

Note: This report provides hotlinks for online access to all listed materials. Also, section titles in this Table of Contents are hotlinks to jump you to that section of the report.

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OVERVIEW

Topics

The State Administration and Veterans' Affairs Interim Committee for the 2017-18 interim was not assigned a study and chose to work on the topics listed below.

Priority topics

- Elections - aging ballot marking machines used by disabled electors and emerging election security issues.
- Public Employee Pension Plans – actuarial funding status and investments.

Second tier topic

- Veterans' affairs – benefit claims process and the recent federal law changes in the U.S. Department of Veterans' Affairs (VA) health care system.
- Disaster and emergency services – HAZMAT incident response capabilities.
- State employee play plan – implementation of recent legislative changes to plan structure.
- Water and sewer district elections – voter qualifications.

The committee's activities on these topics are summarized in this report, arranged by topic and outlined chronologically by meeting date. Hard copies of materials are available from the Montana Legislative Services Division. Links to meeting minutes, reports, and other materials are provided throughout this report. All meeting materials are also available online by navigating to the 2017-18 SAVA committee webpage from www.leg.mt.gov.

Final Reports

In addition to this summary report, the committee's other final reports and key reference documents are:

- Elections: Accessibility for Disabled Electors & Cybersecurity.
- A Legislator's Guide to Montana's Public Employee Retirement Systems.
- Where We've Been: Historical Overview of Montana's Public Employee Retirement Systems
- Green Sheets – Summary Tables of Montana's Public Employee Retirement Systems

STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE: SUMMARY OF 2017-18 ACTIVITIES

Agency Oversight

Statutorily required oversight activities included program monitoring, agency reports, bill draft proposals, and administrative rule review for the following assigned agencies:

- Office of the Secretary of State.
- Commissioner of Political Practices.
- Public Employees' Retirement Board.
- Teachers' Retirement Board.
- Department of Military Affairs.
- Board of Veterans' Affairs.
- Department of Administration, including the following administratively attached entities:
 - Board of Examiners.
 - Burial Preservation Board.
 - Information Technology Board.
 - Lottery Commission.
 - State Board of County Printing.
 - Statewide Interoperability Governing Board (created by Executive Order).

As required by statute, the committee received and reviewed copies of the following agency reports:

- [Montana Board of Veterans' Affairs Biennial Report \(section 10-2-102, MCA\)](#)
- [Montana Board of Investments: Retirement System Trust Fund Investments Annual Report \(sections 5-11-210 and 17-6-230, MCA\)](#)
- Department of Administration
 - [Employee Incentive Program report \(section 2-18-1103, MCA\)](#)
 - [Information Technology Board activities report \(section 2-17-513\(9\), MCA\)](#)
 - [Capitol Complex Advisory Council report \(section 2-17-804, MCA\)](#)

Meetings and Budget

The committee conducted eight 1-day meetings. Additionally, in April 2018, five committee members attended a special National Conference of State Legislatures (NCSL) 2-day meeting in Sheridan, WY, on election security with travel expenses paid by NCSL. Members attended without salary. Of its total budget allocation of \$31,073, the committee expended \$xxxxxxx. The unexpended amount of \$xxxxxx will be available for the 2019-2020 interim committee if it chooses to meet prior to July 1, 2019, when the balance will be reverted to the state general fund.

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Committee Bill Recommendations

The committee recommends to the full legislature the following four committee bills:

- [LC0135](#) – revising provisions for filling a vacancy in the U.S. House.
- [LC0136](#) – requesting an interim legislative study of voter qualifications in all special purpose districts.
- [LC0236](#) – providing an exception from the Montana Administrative Procedures Act for certain State Lottery Commission game rules.
- [LC0323](#) – requesting an interim legislative study on accessibility for disabled electors.

See Appendix A for a summary of the issues, testimony, and committee discussion and action on each of these bills.

ELECTIONS

July 20, 2017

Agenda items

- Overview of the Office of Secretary of State, remarks by Secretary of State Corey Stapleton.
- Overview of the Office of Commissioner of Political Practices (COPP), remarks by Commissioner Jeff Mangan.
- Report from staff and committee members who attended a June 14-16, 2017, NCSL conference in Williamsburg, VA, The Future of Elections: Technology Policy and Funding.

Reports and handouts

- [Overview of Office of Secretary of State](#)
- [Overview of the Office of Commissioner of Political Practices](#)
 - [Litigation status update memo](#)
- [Notes from NCSL Future of Elections Conference](#)

Issues discussed

- Secretary Stapleton's response to President Trump's Presidential Advisory Commission on Election Integrity, which requested voter information.
- Secretary Stapleton's concern about illegal votes.
- The COPP caseload and pending litigation in the U.S. 9th Circuit on contribution limits.
- Public comment from election administrators about aging AutoMARK voting machines, which provide accessible ballot marking technology for disabled electors.

STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE: SUMMARY OF 2017-18 ACTIVITIES

Actions

- Agreed that an examination of aging AutoMARK machines and accessible technology for disabled electors should be one of the committee's top study priorities.
- Agreed to further consider whether the committee should examine inconsistencies in special purpose district election statutes and the topic of when local elections may be cancelled and partisan or nonpartisan provisions.
- Agreed to continue monitoring campaign finance litigation.

September 14, 2017

Agenda items

- Staff background report on types of special purpose districts, statutory framework, and inconsistencies identified to date.
- Informal lunch with Secretary of State and office staff introductions.
- Election administration concerning mail and absentee ballot processing.
- Secretary of State Stapleton's letter in response to an information request by Sen. Malek, SAVA's presiding officer, dated Aug. 3, 2017, concerning rejected ballots from the May 2017 special election to fill the vacancy in Montana's seat in the U.S. House of Representatives.
- Demonstration of the Montana Votes system, which is the statewide voter registration data base.

Reports and handouts

- [Special district election laws, staff paper \(revised 9/12/17\)](#)
- [Staff presentation outline on special districts](#)
- [Handout of selected book pages on local government](#)
- [Absentee and Mail Ballot Laws, staff paper](#)
- [Ballot and Voting System Laws, staff paper](#)
- [Governor's Amendments to HB 103 \(2017\), nonconforming ballots - failed](#)
- Presentation materials from the County Election Administrators
 - [PowerPoint slides on ballot processing](#)
 - [ExpressVote system alternative to AutoMARK and ballot printout](#)
 - [Election judge training manual - Gallatin County, 2016](#)
- [Sen. Malek's letter to the Secretary of State on Aug. 3, 2017](#)
- [Secretary of State Cory Stapleton's letter responding to Sen. Malek](#)
- [Handout on State Voter File](#)

STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE: SUMMARY OF 2017-18 ACTIVITIES

Issues discussed

- The committee agreed that further study this interim of special purpose district and local elections would be time intensive and might be better addressed in the Local Government Interim Committee.
- Members learned about absentee ballots for disabled electors, developments concerning accessible software, mobile and remote ballot access, and the issues election administrators are encountering with the aging AutoMARK systems, such as printer jams, that they are large machines that are difficult to transport and set up, and that Montana's uniform ballot law would not allow a system other than one that can print a uniform ballot, such as the AutoMARK, to be used in Montana.
- Members discussed with the Secretary of State the differences between voter fraud, illegal votes, and mistakes made by voters, such as signing as spouses mixing up and signing each other's absentee ballot envelope.

Actions

- Added to the study plan for elections the topic of using the Common Access Card, an identification card, in the voter registration and voting process for military and overseas electors.

January 18, 2018

Agenda items

- Demonstration of the AutoMARK and newer ExpressVote ballot marking machines and committee "hands on". Both offer accessible ballot marking technology for disabled electors, but the ExpressVote machine does not print a standard ballot.
- Disability Rights Montana presentation on federal law requirements regarding voting accessibility for disabled electors, ballot uniformity, and the perspectives of disabled elector stakeholders.

Reports and handouts

- [Disabled elector voting rights, handout from Disability Rights Montana](#)

Issues discussed

- Secretary of State's working group on ballot integrity – how to reduce number of ballots rejected for mismatched signatures or other issues related to voter errors.
- Differences between the AutoMARK and ExpressVote machines; that the ExpressVote machine does not print a uniform ballot, so if the system were to be used in Montana as an update to the AutoMARK, state law would need to be changed to allow a paper receipt that shows the votes

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but is half the regular ballot size; and how the ExpressVote receipt ballot bar code is used when votes are tabulated.

- Public comment by the League of Women Voters Montana concerning election integrity and voting machines.

Actions

- None.

March 6, 2018

Agenda items

- Panel of experts on voting systems for disabled electors.

Reports and handouts

From expert panel:

- Wendy Underhill, Program Director, Elections and Redistricting, NCSL
 - [PowerPoint Slides - Accessible Voting Equipment](#)
 - [Election Technology Overview](#)
 - [The Price of Democracy: Splitting the Bill for Elections](#)
- Susan Greenhalgh, Election Specialist, National Election Defense Coalition
 - [Prepared Testimony](#)
 - [Principles and guidelines for remote ballot marking systems \(draft report\)](#)
- Michelle Bishop, Disability Advocacy Specialist for Voting Rights, National Disability Rights Network
 - [Statement on Balancing Security and Accessibility in Voting](#)
- Lori Mommaerts, Election Systems & Software (ES&S), Montana representative
 - [Presentation handout: ExpressVote by ES&S](#)
- Montana Secretary of State's Office: Dana Corson, Elections Director, and Casey Hayes, Elections Specialist
 - [County voting systems and certification process](#)

Issues discussed

- Overview of available voting technology.
- Accessible machines at polling place compared to disabled electors voting at home.
- Experiences in other states.
- Utah's process regarding a recent statewide study, evaluation of vendors for voting systems, and choice of a statewide vendor.

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- Options for Montana.
- Security concerns, especially concerning electronic ballots and remote balloting technology.
- Accessible technology for disabled electors and need to balance security with accessibility.
- Costs and maintenance of AutoMARK and ExpressVote machines.
- County systems and state certification process.

Actions

- None.

May 16, 2018

Agenda items

- Water and sewer district election laws, staff report and public comment.
- Report on April 26-27 NCSL Election Security Conference in Sheridan, WY.
- Common Access Cards and their use in voter registration and voting process by military and overseas electors.
- Current practices in Montana concerning voter identification and absentee voting for uniformed and overseas electors.
- Statutory review of current laws on voting systems for disabled electors.
- Informational briefing on Larson v. State lawsuit concerning Green Party access to the ballot.

Reports and handouts

- [Staff Issue Brief: Determining the Number of Qualified Electors for Water & Sewer Districts](#)
- [NCSL Resource Page – Elections Security: States Teaming Up Cheyenne](#)
- [Recommendations from the Council of State Government for Overseas Voting Initiative Technology Working Group](#)
- [PowerPoint on Absentee System for Overseas and Military Voters and Disabled Electors](#)
- Staff Report: Disabled Electors: Analysis of Statutes and Rules (updated on June 14, 2018)
 - [Analysis of Statutes](#)
 - [Montana Code Annotated Sections](#)
 - [Administrative Rules Sections](#)

Issues discussed

- Difficulty in Lewis & Clark County determining how many qualified electors are need on a petition to conduct an election on creation of a water and sewer district.
- Voter qualifications related to property ownership and/or residency.
- Voter information files.
- Cybersecurity for election administration and hacking of voter files.

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- Differences between the absentee ballot process for military/overseas electors and disabled electors.

Actions

- Requested a preliminary bill draft revising qualified elector statute for water and sewer districts.
- Requested a preliminary bill draft requesting an interim study of voter qualifications for all special purpose districts.

July 18, 2018

Agenda items

- Review and public comment on preliminary bill drafts.
- Federal funding for election security: 2018 HAVA grants to states - \$3 million for Montana
- Voter information files and public access.
- Panel: Recommendations for potential legislation and/or administrative rule and policy updates, including for school elections:
 - Office of Public Instruction and school election officials
 - Nicole Thuotte, School Finance Specialist, OPI
 - Kara Sperle, School Finance Division Administrator, OPI
 - Denise Williams, Montana School Boards Association
 - Beth Brenneman, Disability Rights Montana
 - Regina Plettenberg, Legislative Liaison, Montana Clerks and Records and Election Administrators Association
 - Dana Corson, Elections Director, Secretary of State

Reports and handouts

- [LCsa02](#) - Adding voter registration to qualified elector provision for residents of water/sewer districts.
- [LCsa03](#) - Study resolution for interim study of elector qualification provisions for all special purpose districts.
- 2018 Federal HAVA Grants
 - US. Election Assistance Commission information - [web page](#) - [PDF](#)
 - [State-by-state grant and matching amounts](#)
 - ["Federal Funds and Difficult Decisions", NCSL, The Canvass, May 2018](#)
- Voter Information - How Public?
 - ["It's a Presidential Election Year: Do You Know Where Your Voter Records Are?", NCSL, The Canvass, Feb. 2016](#)
 - [Research Memo - Montana laws and rules on voter information and confidentiality, March 2018](#)

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- [Voter Information File and data fields - PDF of Montana Secretary of State's Web Page](#)
- Disabled Elector Accessibility
 - [REVISED Summary Table Analysis of MT Statutes and Rules, June 2018](#)
 - [Montana Code Annotated Statutes, full text extracts](#)
 - [Administrative Rules, full text extracts](#)

Issues discussed

- Water and sewer district elections – any change in voter qualification statute should be done after more in-depth examination of all special purpose district election laws on voter qualifications.
- Voter information files – committee would like additional information on other state laws.
- Committee would like Disability Rights Montana to work with committee staff to review statutes and propose updates.

Actions

- Adopted LCsa03, committee bill requesting an interim study on voter qualification provisions for all special purpose districts. The official bill draft number is LC 136.

PENSIONS

*More information about the public employee retirement systems is available in [A Legislator's Guide to Montana's Public Employee Retirement Systems](#).

July 20, 2017

Agenda items

- Overview of the Public Employees' Retirement Board (PERB) and the Montana Public Employees' Retirement Administration (MPERA).
- Overview of the Teachers Retirement Board.
- Overview of the Montana Board of Investments (MBOI)
- Presentation of the Actuarial Experience Study for MPERA retirement systems: Six-year period ending June 30, 2016

Reports and handouts

- [Public Employees Retirement Board/MPERA](#)
- [Teachers' Retirement Board](#)
- [Board of Investments](#)
- [Actuarial Experience Study for MPERA retirement systems: Six-year period ending June 30, 2016](#)

STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE: SUMMARY OF 2017-18 ACTIVITIES

Issues discussed

- Actuarial impact of assumption changes on the MPERA retirement systems.
- Net expenses of pension plan administration.
- History of price inflation and wage inflation.

Actions

- Agreed that monitoring of public employee pension plans would be a top study priority.

January 18, 2018

Agenda items

- Staff background report on actuarial basics and legislative history of the pension plans.
- Staff background report on how the public pension trust funds are invested.

Reports and handouts

- [Staff PowerPoint - Actuarial Valuation Basics and Legislative History, Scurr, LSD](#)
- [Staff Paper - Montana's Public Pensions: Where We've Been, Scurr, LSD](#)
- [Staff PowerPoint - Montana's Pension Investments 101, Scurr, LSD - PowerPoint](#)
- [Staff Paper - Issues & Options for Requesting Information from Outside Experts on Pensions](#)
- [MPERA valuation summary, Schwinden, MPERA](#)
- [TRS valuation summary, Graham, TRS](#)
- [Snapshot of Unified Investment Program on 9-30-17, Montana Board of Investments](#)
- Some reference materials for further reading
 - [Public Plans Data Info Graph, 2016 Snap Shot](#)
 - [Public pensions: Feeding, and fixing, the sausage machine](#) - Federal Reserve Bank of Minneapolis newsletter article
 - [Significant Reforms to State Retirement Systems](#)
 - [How Do Public Pensions Invest? A Primer](#)
 - [State Public Pension Funds Increase Use of Complex Investments](#) - The PEW Charitable Trusts
 - [Pensions Driving State Liability Burdens](#) – Fitch Ratings

Issues discussed

- Actuarial unsoundness of the Game Wardens' and Peace Officers' Retirement System.
- Public employee pay.
- Life-time payments to beneficiaries.
- Investment performance and assumed rate of return.
- Net cash flow and plan income compared to expenses.

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- Market volatility.

Actions

- None.

March 6, 2018

Agenda items

Expert Panel:

- Luke Martel, Group Director, Employment, Labor & Retirement, NCSL
 - Overview of pension legislation and actions in other states to recover from pension fund investment losses
 - How do Montana's benefit reductions and contribution increases compare?
- Keith Brainard, Research Director, National Association for State Retirement Plan Administrators (NASRA)
 - How do Montana's DB plans compare with selected peer states?
- Josh Franzel, President/CEO, Center for State and Local Government Excellence (*Mr. Franzel could not make the meeting due to a snow storm causing his flight to be cancelled.)
 - Overview of the SLGE's guide for elected officials
 - Best practice recommendations and trends in costs and funding
 - Key take-a-ways: why certain pension plans are better off than others

Reports and handouts

- Luke Martel, Group Director, Employment, Labor & Retirement, NCSL
 - [PowerPoint Slides](#)
- Keith Brainard, Research Director, National Assoc. of State Retirement Administrators (NASRA)
 - [PowerPoint Slides](#)
 - [Issue Brief: Assessing Pension Plan Health: More Than One Right Number Tells the Whole Story, by the American Academy of Actuaries](#)
- Joshua Franzel, President and CEO, Center for State and Local Government Excellence (SLGE)
 - [PowerPoint Slides](#)
 - [Understanding Public Pensions: A Guide for Elected Officials](#)
 - [Infographic: Public Plans Data: 2016 Snapshot](#)
 - [Infographic: State and Local Pensions: A Long-Term View](#)
 - [Infographic: State and Local Government Compensation](#)
- Additional Reference Material
 - [Speaker Bios](#)
 - [State and Local Pension Reform Since the Financial Crisis, SLGE](#)
 - [Understanding New Pension Funding Guidelines and Calculations](#)

STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE: SUMMARY OF 2017-18 ACTIVITIES

- [Montana Board of Investments, Section 17-6-230, MCA, Report on Pension Investments](#)

Issues discussed

- Cost-of-living adjustments.
- Social security and public safety personnel.
- How Montana's systems compare to other states.

Actions

- None.

July 18, 2018

Agenda items

- Presentation of TRS actuarial experience study for 5-year period ending July 1, 2017.

Reports and handouts

- [TRS Experience Study – Full Report](#)
- [TRS Experience Study – Summary Slides](#)

Issues discussed

- Actuarial assumption changes and impact on TRS funding.

Actions

- None.

September 6, 2018

Agenda items

- Presentation of Public Employee Retirement Board's proposed bill draft requests.
- Presentation of Teachers' Retirement Board proposed bill draft requests.

Reports and handouts

- Public Employees' Retirement Board/MPERA
 - [Bills overview table](#)

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- [Summary of housekeeping bill](#)
- Teachers' Retirement Board/TRS
 - [Bills overview table](#)
 - [Summary of legislative concepts](#)

Issues discussed

- The legislative proposals of each retirement board.

Actions

- None. Motions to authorize the bill requests for the retirement boards failed on tied votes.

VETERANS AFFAIRS

July 20, 2017

Agenda items

- Overview of Montana Board of Veterans' Affairs and the Montana Veterans' Affairs Division (MVAD)

Reports and handouts

- [Overview of Board of Veterans' Affairs/MVAD](#)

Issues discussed

- Transportation for veterans in Eastern Montana to VA Hospital at Fort Harrison.
- Filing of veteran benefit claims by service officers and organization other than the MVAD and substandard claim products.

Actions

- Decided that veterans' affairs would be a second tier study topic for the interim.
- Agreed to continue monitoring veteran suicide prevention.
- Decided to examine the veteran benefit claims process.

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September 14, 2017

Agenda items

- Informational briefings on transportation issues - VA and DAV roles
 - Ms. Amanda Hopkins, VA Veterans Transportation Service
 - Ms. Terrie Casey, VA Voluntary Services Chief
- Overview of VA veteran suicide program - statistics and VA prevention efforts, Ms. Juliana Hallows, VA suicide prevention coordinator
- State data on veteran suicides, Ms. Laura Williamson, state epidemiologist, DPHHS
- State suicide prevention program, focus on veteran suicide prevention and implementation of HB 118 (2017), Ms. Zoe Barnard, administrator of Addictive and Mental Disorders Division, DPHHS
- Overview of Montana National Guard suicide prevention program, Maj. Gen. Matthew Quinn and selected staff, MTNG

Reports and handouts

- [Map of VA Montana Health Care System](#)
- [Maps of Veterans' Transportation Service Areas - VA and DAV](#)
- [Montana Veteran Demographics](#)
- [Veterans' suicide data from DPHHS, Laura Williamson - revised](#)
- [Veteran suicide slides from VA](#) presented to SAVA during 2015-16 interim

Issues discussed

- Efforts to continue working on veteran suicide prevention activities at all levels.

Actions

- Added informational briefing about VA Vet Choice program to the study plan.
- Added staff white paper and additional background on veteran benefit claims process to the study plan.

January 18, 2018

Agenda items

- Staff background report on veteran benefit claims process and role of MVAD.
- Panel on MVAD veteran service officers' role, training, and certification
 - Joe Foster, Administrator, MVAD

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- Kelly Ackerman, supervising VSO, Helena, MVAD
- Koryn Van Eimeren, Veteran Service Center Manager, VA
- Art Widhalm, past commander, VFW, Dept. of MT
- Ron Milam, Vietnam War veteran, Missoula
- George Blackard, American Legion, Billings

Reports and handouts

- [Staff PowerPoint - Overview of Veterans' Benefits & Services](#)
- Montana Veterans' Affairs Division handouts
 - [Brochure](#)
 - [Letter from Regional Office on Fully Developed Claims Initiative](#)

Issues discussed

- Importance of quality benefit claims products for veterans and problems when other organization and service officers present a substandard claim product to the VA.

Actions

- None.

September 6, 2018

Agenda items

- Veterans Affairs - Vet Choice Program and 2018 VA Mission Act – Informational Briefing
 - Dr. Kathy Berger, Director, Montana VA, with key staff
- Veterans' affairs staff liaisons for Montana's U.S. Congressional Delegation
 - Bruce Knudsen for Sen. John Tester
 - Denny Lenoir for Sen. Steve Daines (Brett Simons attended on behalf of Mr. Lenoir)
 - Mike Waters for Rep. Gianforte (Jim Korth attended on behalf of Mike Waters)

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- Provider comments
 - Montana Medical Association – Jean Branscum, CEO
- Veteran comments
 - Veteran Service Organizations – Gary White, Montana Dept. of the American Legion
 - Other veterans and public comment – Joe Walsh

Reports and handouts

- [Key Elements of VA Mission Act – U.S. Dept. of Veterans' Affairs](#)
- [VA Mission Act Fact Sheet - U.S. Sen. Tester](#)
- [VA Mission Act brochure - U.S. Sen. Tester](#)
- [VA Mission Act Fact Sheet - U.S. Sen. Isakson](#)

Issues discussed

- Consolidation of administrative processes for veterans to receive referral to community provider.
- Faster payment of private providers by VA.
- Expansion of in-home caregiving program for injured veterans.
- Recruitment to fill vacancies in VA hospitals and other facilities.
- Information sharing between VA and other providers.

Actions

- None.

DISASTER AND EMERGENCY SERVICES – HAZMAT INCIDENT RESPONSE CAPABILITIES

May 16, 2018

Agenda items

- Overview of Montana Board of Veterans' Affairs and the Montana Veterans' Affairs Division (MVAD)

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- Background overview of disaster and emergency services, state and local organization and operations, and HAZMAT capabilities
 - Sheri Scurr, Legislative Research Analyst
- Recent HAZMAT response exercises, Department of Military Affairs
 - Lieutenant Colonel Todd Verrill, Commander, Civil Support Team, Montana National Guard
- State Emergency Response Commission (SERC) and regional HAZMAT teams
 - Delila Bruno, SERC co-chair
 - Jason Lyon, Battalion Chief, HAZMAT Coordinator/ Billings Fire Department's Regional HAZMAT Team
 - Gordy Hughes, Assistant Fire Chief, Missoula City Fire
 - Jason Diehl, Fire Chief, Missoula City Fire

Reports and handouts

- [PowerPoint: HAZMAT Incident Response & Local Capabilities, by Sheri Scurr, LSD](#)
 - [Attachments](#) – key state statutes, SERC and reporting committees summary and membership
- [Legislative Performance Audit 14P-13: Railroad Safety](#)
- [Audit Follow-up - June 2017](#)

Issues discussed

- Current statutes on DES organizational structure
 - Potential need for updates and clarification concerning roles and responsibilities with respect to role of DES and SERC and with respect to the Local Emergency Response Authority (LERA) and the Local Emergency Planning Committees (LEPC)
 - State statutes provide for LERA, but do not mention the interaction with and role of the LEPCs, which are organized pursuant to federal law
- Findings and recommendations of the Legislative Performance Audit issued in October 2015 and the follow-up report from June 2017.
- [House Bill No. 296 \(2017\)](#), introduced by Rep. Hayman, which failed, but would have created a task force to further study HAZMAT incident response capabilities.
- Options for SAVA.
- Recent exercises by DMA to respond to HAZMAT incidents.
- Regional HAZMAT teams and how they are set up at the local level.
- Lack of resources in rural areas to set up a regional HAZMAT team.

Actions

- None.

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STATE EMPLOYEE PAY PLAN

May 16, 2018

Agenda items

- Staff background briefing on previous studies, pay plan bills, and most recent changes
- Status of implementing changes, Department of Administration pay and classification staff

Reports and handouts

- [Staff PowerPoint: Broadband Pay Plan Overview & History](#)
- [History of State Employee Pay Increases](#)
- [Legislative Performance Audit 15P-05: Oversight of Discretionary Pay Changes for State Employees](#)

Issues discussed

- Turnover and that most employees move within rather than between agencies.
- Pay increases as a percentage compared to flat dollar and cents amounts and concern that percentage increases help people with higher salaries rather than lower paid employees.
- Exit interview information and why employees leave is gathered by individual agencies and more information gathering about this would be helpful.
- Settlement amounts related to grievances or a settlement with the employer are not part of a pay plan.
- Status of implementing new classification methodologies will be in upcoming report to Legislative Audit Committee.

Actions

- None.

WATER AND SEWER DISTRICTS – VOTER QUALIFICATIONS

May 16, 2018

Agenda items

- Staff background briefing on recent statutory changes to voter qualifications for water and sewer district elections and the impact on petition requirements to establish a district.

Reports and handouts

- [Staff Issue Brief: Determining the Number of Qualified Electors for Water & Sewer Districts](#)
- [Written public comment from citizen trying to gather signatures on petition to create new district.](#)

Issues discussed

- Written public comment from citizen trying to get signatures for a petition to establish a water and sewer district in Lewis & Clark County and difficulty determining number of qualified electors in the district due to 2017 session change in the statute described in the staff issues brief.
- Comments from Audrey McCue, elections supervisor for Lewis & Clark County, about how the county was able to estimate the number of signatures, but citizen did not have enough signatures to meet estimate of threshold. However, citizen was able to gather more signatures to meet estimated threshold, so election was held. Thus, the short-term concern was resolved, but the statute on voter qualifications would still need to be clarified with respect to who could be a qualified voter, especially when a property has multiple property owners.
- Voter qualification criteria different depending on type of district. Also, laws vary with respect to margins required to pass a special district initiative.
- Public comment from Shantil Siaperas, communications director for MACo, about a previous special district study and comprehensive statutory revisions related to certain special districts where fees and taxes are paid. She said MACo would be happy to be a resource if the committee wanted to do additional work on these statutes next interim.

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Actions

- The committee voted to request two bill drafts for consideration at the next meeting, one to address the specific water and sewer district issue regarding determination of the number of qualified electors and a second to request and interim study on voter qualifications in all special purpose districts.

July 18, 2018

Agenda items

- Initial review of two committee bills on special districts

Reports and handouts

- Staff Issue Brief: Determining the Number of Qualified Electors for Water & Sewer Districts
- [LCsa02](#) – providing that a person who does not own property in a water and sewer district but who is a resident of the district is a qualified elector if the resident is a registered voter in the district.
 - LCsa2A – a modified approach to the LCsa02 bill draft.
 - LCsa2C – another approach to LCsa02 to address multiple ownership of one property.
- [LCsa03](#) – study resolution to and interim study of elector qualifications for all special purpose district elections.

Issues discussed

- There are different voter qualification criteria in other special districts and although LCsa02 would address the current concern in the water and sewer district statute, it would create yet another set of criteria for voters that differs from other districts' statutes.
- Audrey McCue, elections supervisor for Lewis & Clark County, explained how the county was able to estimate the number of signatures required for a petition for an election to create a water and sewer district, so the election was held and the district was established.

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- Since the short-term issue had been resolved for Lewis & Clark County, LCsa02 or its alternatives was not needed now, and LCsa03 provided an avenue for a more thorough examination of voter qualifications in all special purpose district statutes with all stakeholders at the table.
- Eric Bryson, executive director for MACo, offered public comment supporting the interim study requested in LCsa03.

Actions

- The committee voted unanimously to adopt LCsa03 as a committee bill, with Rep. Hayman agreeing to carry it on behalf of the committee.

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APPENDIX A – COMMITTEE BILLS

LC0135 - Revising provisions for filling a vacancy in the U.S. House.

This bill conforms Montana statute with the U.S. Constitution, which does not allow the governor to make a temporary appointment to fill a vacancy in the U.S. House of Representatives.

A bill enacted in 2015 (SB 169) revised laws for a filling vacancy in the U.S. Senate after U.S. Sen. Max Baucus resigned in 2014 to become Ambassador to China. The revisions sought to clarify the mechanics of the governor making a temporary appointment until an election could be held to fill the vacancy. The bill was drafted in such a way that it consolidated the vacancy provisions for both the U.S. Senate and the U.S. House of Representatives into one section. However, although the U.S. Constitution allows state legislatures to empower governors to make temporary appointments until an election to fill a vacancy in the U.S. Senate, the U.S. Constitution does not have a similar provision for filling a vacancy in the U.S. House. Consequently, although Montana's statute currently authorizes the governor to make a temporary appointment to fill a vacancy in the U.S. House of Representatives, the U.S. Constitution states that the vacancy may only be filled by an election. SB 301 in the 2017 session sought to fix this conflict and conform Montana's law with the U.S. Constitution. However, the SB 301 failed to meet the transmittal deadline and died. LC0135 is essentially the same bill.

The committee voted unanimously to request this bill.

The pertinent sentences from the U.S. Constitution are provided below:

Art. I, section 2: "... When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies." ...

Amendment XVII: "... When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct. ..."

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[LC0136](#) – Requesting an interim legislative study of voter qualifications in all special purpose districts.

As summarized in this report, the committee this interim examined the statutory provisions on who could be counted as a qualified elector for the purposes of petitioning for and voting in an election to create a water and sewer district. (See the summary of the committee's activities on water and sewer district voter qualifications starting on page 19 of this report.)

During its consideration of voter qualifications that included, for example discussion about whether to allow one vote per property in the district or one vote per property owner if a property was owned by more than one person, committee members learned that different special purpose districts had different voter qualification provisions. Thus, rather than recommend a bill to fix a technical problem in the water and sewer district elections that could create further inconsistencies with voter qualifications in special purpose districts, the committee decided it was best to conduct a thorough review of voter qualifications in all special purpose district statutes. (See the "whereas" clauses in the resolution.)

The resolution was supported by MACo, and the committee voted unanimously to recommend it to the full legislature.

[LC0236](#) – Providing an exception from the Montana Administrative Procedures Act for certain State Lottery Commission game rules.

The legislature often authorizes state agencies to adopt rules to implement statutory provisions. Because agencies rules are administrative law, the legislature also requires that rules be written and adopted in a formalized manner that provides public notice, public comment, and amendments. This formal process is outlined in statute as the Montana Administrative Procedures Act (MAPA). Under MAPA, a "rule" is defined as "each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule." The definition also includes certain exceptions for procedures or statements that do not need to follow MAPA. Furthermore, section 2-4-107, MCA, of MAPA specifically states in part: "No subsequent legislation shall be considered to supersede or modify any provision of this chapter, whether by implication or otherwise, except to the extent that such legislation shall do so expressly."

SAVA's staff attorney brought to SAVA's attention an issue that emerged related to statutory tension between a State Lottery Act of 1985 statute that instructs the Commission to determine and set policies on lottery games and the MAPA definition of a rule. The Commission's interpretation of the State Lottery Act was that the legislature's intent under the Act was the Commission could adopt specific

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game policies without following the formal procedures required under MAPA. However, because there is not an express exemption in MAPA for these rules, SAVA's staff attorney explained that it seemed that the game policies would in fact need to be adopted in rule under MAPA.

For example, SAVA's staff attorney noted that in the Commission's rule ARM 2.63.407 concerning retailer commissions, the rule states that retailers who "sell terminal-issued tickets designated in lottery policy may increase the terminal-issued commission for participating games up to an additional 5 percent". However, the lottery policy itself has not been adopted as a rule under MAPA. Another example in ARM 2.63.407 is a subsection that states the retailer ticket sales bases, minimum requirements, and bonus rates may be adjusted annually at the discretion of the commission" and the policy on how these adjustments are made are also not in a rule adopted under MAPA. Game policies include the price structures, the parameters of the game, and with respect to the scratch ticket games, the format and layout of the ticket.

Ms. Angela Wong, director of the Montana Lottery, testified in response to questions at the July 18 and Sept. 6, 2018, SAVA meetings. She stated it was not the intent of the state lottery to circumvent MAPA and it still adopts rules under MAPA, but the specific policies and parameters of games change rapidly and time is a factor. Additionally, many games are multi-state games, such as Powerball, so it is not necessarily feasible to go through the MAPA process for these changes.

After discussion, the committee chose to draft and recommend a bill to the full legislature that will clarify this issue by providing a specific express exemption in the MAPA definition of a rule so that these game policies and parameters would not be subject to the formal MAPA process.

[LC0323](#) – Requesting an interim legislative study on accessibility for disabled electors.

One of the primary topics studied by SAVA during the 2017-18 interim was the aging AutoMARK ballot marking machines that are provided at each polling place so disabled electors have an opportunity to vote in secret and independently. This topic is thoroughly summarized in SAVA's final report "Elections: Accessibility for Disabled Electors & Cybersecurity". SAVA found that statutes on accessibility could be updated to use appropriated terminology on accessible voting technology a concluded that a systematic and more thorough review with all stakeholders at the table would be beneficial. See the bill's "whereas clauses" for additional context for this recommended study resolution.

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