

# OVERVIEW OF DUTIES AND PROPOSED WORK PLAN

*STATE ADMINISTRATION AND  
VETERANS' AFFAIRS INTERIM COMMITTEE*

2013-2014



**PREPARED BY:**  
Office of Research & Policy Analysis  
Sheri S. Scurr, Research Analyst

Montana Legislative Services Division  
P.O. Box 201706  
Helena, MT 59620-1706  
<http://leg.mt.gov>  
(406) 444-3064 FAX: (406) 444-3036

## MEMBERSHIP

### Senators

Dee Brown (R - Hungry Horse)

Larry Jent (D - Bozeman)

Dave Lewis (R - Helena)

Sue Malek (D - Missoula)

### Representatives

Bryce Bennett (D - Missoula)

Joanne Blyton (R - Joliet)

Doug Kary (R - Billings)

Kathy Swanson (D - Anaconda)

## STAFF

Sheri Scurr, Research Analyst  
sscurr@mt.gov (406) 444-3596

Ginger Aldrich, Attorney  
kvaldrich@mt.gov (406) 444-4464

## COMMITTEE WEBSITE

[www.leg.mt.gov/sava](http://www.leg.mt.gov/sava)

## ORIENTATION & PLANNING FOR THE 2013-14 INTERIM

This packet presents SAVA's:

- Statutory duties
- Previous work
- Assignments this interim
- Work plan decisions

### STATUTORY DUTIES

#### Jurisdiction

The State Administration and Veteran's Affairs Interim Committee's (SAVA or Committee) statutory duties are outlined in sections 5-5-202, 5-5-215 and 5-5-226 of the Montana Code Annotated (MCA). (*See Attachment A.*) Under these statutes, SAVA is empowered to sit as a committee, act within its statutorily assigned areas of responsibility, and conduct interim studies assigned by the Legislative Council. The committee *does not* have statutory authority over issues or agencies that are under the jurisdiction of another interim committee. An interim committee may refer an issue to another committee if the committee determines that the other committee is a more appropriate venue for the issue's consideration. The Legislative Council is to resolve any disputes about jurisdiction.

#### Agency monitoring

By statute, the Committee must review agency rules, monitor programs, and authorize drafting of agency legislation for the following agencies:

- Department of Administration (DOA), not including the State Compensation and Insurance Fund and the Division of Banking and Financial Institutions, and the following administratively attached entities:
  - the Public Employees' Retirement Board; and
  - the Teachers' Retirement Board.
- Department of Military Affairs (DMA), and the following administratively attached entity:
  - the Board of Veterans' Affairs.

- Office of the Secretary of State (SOS), and the following administratively attached entities:
  - the Office of Commissioner of Political Practices; and
  - the Board of State Canvassers<sup>1</sup>.

Each of the Committee's statutory duties is described in more detail below.

*Rule review*

Legal staff for the Committee will review each agency's proposed amendments to rules or proposed new rules. As part of this rule-review process, legal staff will notify the committee of any concerns about the agency's compliance with the Montana Administrative Procedures Act. The legal staff's notification to the Committee is usually done in the form of a memorandum. A rule review item must be included on each meeting agenda. However, unless the Committee directs otherwise, legal staff will only present information if there are questions or concerns about the rule review memorandum.

Interim committees may not prevent a rule or proposed rule change from being adopted, but it may object to proposed change or new rule. If a majority of the committee members vote to object, the agency is notified and the committee must then address the rule at its next meeting. An objection prevents the rule from being adopted for 6-months, during which the agency may (but is not required to) withdraw or revise its proposed rule or rule change, or the committee may withdraw its objection.

*Program monitoring*

The Committee is required to monitor the operations of agencies under its jurisdiction, giving specific attention to:

- identification of issues likely to require future legislative attention;
- opportunities to improve existing laws governing an agency's operations; and
- determining whether the experiences that Montanans have with an agency can be improved upon through legislative action.

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<sup>1</sup> The Board of State Canvassers consists of the Secretary of State, the Attorney General, and the Superintendent of Public Instruction. Section 2-15-412, MCA, allocates the board to the Office of the Secretary of State for administrative purposes only. Under section 13-15-502, MCA, the board must meet with 27 days of a statewide election and determine the vote. SAVA has not typically monitored this agency.

Authorize drafting of agency legislation

An agency may not submit a bill draft request. A bill draft request may only be initiated by a legislative committee or an individual legislator. However, agency legislation must be preintroduced. Consequently, if legislative staff does not begin drafting agency legislation prior to the election, the post-election flood of bill draft requests from legislators may be overwhelming. To alleviate this flood and give the legislature an opportunity to preview agency legislative proposals, statutes provide that interim committees may submit bill draft requests on behalf of agencies. This allows legislative staff to start drafting agency bills before the election so that staff has more time to focus on legislators' requests after the election. If SAVA authorizes legislative staff to draft agency legislation, the agency must still find a legislative sponsor so that the bill may be preintroduced as required by law. Interim committees generally receive agency bill proposals for review in late spring or early summer.

Reports to SAVA

Certain statutes require that certain agencies submit a report to SAVA, These agencies and reports are listed below:

Department of Administration

- Employee Incentive Program Report, section 2-18-1103, MCA;
- Information technology activities of Department, section 2-17-512, MCA;
- State of Montana Strategic Information Technology Plan, sections 2-17-521 and 2-17-522, MCA;
- Capitol Complex Advisory Council report, section 2-17-804, MCA;
- Information on Economic Development Effect, section 32-11-306, MCA; and
- Montana Land Information Act report, section 90-1-404, MCA.

Department of Military Affairs

- Montana Board of Veterans Affairs biennial report, section 10-2-102, MCA.

Board of Investments

- Retirement System Trust Fund Investments report, sections 5-11-210 and 17-6-230, MCA.

Public Employees' Retirement Board

- Periodic actuarial investigation into the actuarial experiences of the retirement systems and plans, sections 5-11-210 and 19-2-405, MCA; and
- Report of Board's work during fiscal year, sections 5-11-210 and 19-2-407, MCA.

Teachers' Retirement Board

- Required to provide copies of required report to Office of Budget and Program Planning detailing fiscal transactions for two fiscal years preceding report due date and annual valuation of assets and liabilities of retirement system, sections 5-11-210 and 19-20-201, MCA.

*Pension oversight duties*

The Committee also has very specific duties with respect to the public employee pension plans. Section 5-5-226, MCA, as amended by during the 2013 Session, states:

"[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."

*Special retirement board reports*

The two "pension fix" bills that passed the 2013 Session, HB 377 and HB 454, respectively require that the Teachers' Retirement Board and the Public Employees' Retirement Board make a special report to SAVA and the Legislative Finance Committee.

The provision included in both bills states:

"As soon as possible after the completion of each annual actuarial valuation for the [teachers' retirement system or retirement systems administered by the public employees' retirement board], the board shall have its actuary present a

detailed actuarial report to the legislative finance committee, provided for in 5-12-201, and the state administration and veterans' affairs interim committee, provided for in 5-5-228. The actuarial report must provide a trend analysis of the system's actual and projected progress toward 100% funding."

## PREVIOUS WORK

The Committee's activities and study assignments since the 2005-06 interim are listed below, with the most recent interim activities listed first.

- 2011-12: No studies assigned, but SAVA examined:  
- the Office of Commissioner of Political Practices  
- reviewed statutory advisory councils and required reports pursuant to HB 142 from the 2011 Session
- 2009-10: HB 659 - study of retirement plan design options  
HJR 35 - study of state employee bonus pay
- 2007-08: HJR 46 - study of election laws  
HJR 59 - study of public employee retirement plans
- 2005-06: HJR 42 - study of public employee retirement plans

## ASSIGNMENTS THIS INTERIM

The Legislative Council met on May 15, 2013, to review all of the requested interim committee studies and assign them to individual committees. The Legislative Council assigned two interim studies to SAVA, as summarized below.

### HJR 1 - Study of Office of Commissioner of Political Practices

The resolution (*see attachment B*) requests that the assigned committee examine:

- (1) the process for selecting a Commissioner of Political Practices;
- (2) the structure, composition, and duties of the Office of Commissioner of Political Practices; and
- (3) the enforcement authority of the Office of Commissioner of Political Practices, including options for ensuring more immediate consequences for violating campaign laws.

The study is to include a review of practices in other states, analysis of options, consideration of stakeholder concerns, and the development of recommendations to improve confidence in the integrity, objectivity, and capabilities of the Office of Commissioner of Political Practices.

SJR 14 - Identify opportunities to make combining primary and school elections feasible

The preamble of the study resolution (*See Attachment C*) mentions that SB 140 was tabled in the Senate Local Government Committee after that committee agreed to request a study resolution aimed at identifying ways to make combining local and school elections feasible.

Under the resolution, the assigned interim committee (i.e., SAVA) is asked to:

- (1) examine existing dates, deadlines, and other procedures in Montana law that would require adjustment in order to conduct combined elections;
- (2) examine changes that election administrators would need to implement to combine primary and school elections, including:
  - (a) accommodating various administrative boundaries for jurisdictions holding elections, including state, legislative, county, school district, city, and other district elections, and reducing voter confusion about these boundaries;
  - (b) administering the technical elements of combined elections, including the effects on overseas and military voters, different poll location and opening and closing times, and which local government authority is responsible for election costs; and
  - (c) determining the responsibility for conducting combined elections that involve county election administrators and school district officials.

The resolution also asks the committee to request the participation of stakeholders in the election process, including county election administrators, the Office of the Secretary of State, school administrators and officials, and other interested parties as determined by the committee.



## OTHER STUDIES OF INTEREST

The Committee may wish to stay informed about the following three studies, which were assigned to other committees:

- HJR 17 - study of state employee pay plans, which the Legislative Council assigned to the Legislative Finance Committee as requested in the resolution;
- HJR 2 - study of state and local government electronic records management, which the Legislative Council assigned to the Education and Local Government Interim Committee; and
- HJR 30 - inventory of benefits available to active military personnel and veterans, which the Legislative Council assigned to legislative staff.

## WORK PLAN CONSIDERATIONS

### Available Resources

Budget:	\$34,013
Avg. cost per mtg:	\$3,000
Mtg. days funded:	11 days (assuming no special additional costs)
Staff:	Research analyst, staff attorney, secretary
Deadline:	September 15, 2014, for non-pension duties

### Special Considerations

2-day meetings:	Two-day meetings save a little money in Committee member travel costs, but require more staff preparation time.
Meeting locations:	Unless otherwise directed by the Committee, all meetings will be held in the Capitol Building. Out-of-town meetings are discouraged because of added costs for staff travel, the lack of audio and video recording capabilities for minutes, and the inability to broadcast or provide on-line public access.
Minimum duties:	Statutorily assigned duties and duties assigned by bills must be accomplished.

- Time between mtgs: A minimum of 6 to 8 weeks is needed between meetings to properly prepare the agenda, write requested reports, and coordinate speakers.
- Subcommittees: Section 5-5-211 (7), MCA, authorizes an interim committee to create subcommittees and provides that nonlegislators may be appointed as members. A working group, task force, or other *ad hoc* group of the committee is still considered a subcommittee and involves the same public notice, minutes, and public participation as a full committee meeting,
- Site visits: If directed by the committee, staff may coordinate a site visit as part of the committee's agency monitoring duties or assigned study tasks.

### WORK PLAN PRIORITIES - COMMITTEE DECISION MATRIX

*\*The Committee should review, revise as desired, and adopt its work plan priorities.*

*Staff has provided recommendations for the committee's consideration.*

Interim Activity	Priority as % of Time	Comments
Assigned studies (65%)		
HJR 1 - study Office of Commissioner of Political Practices	40%	Study ranked 3rd out of 17 in legislative poll
SJR 14 - study combining primary and school elections	25%	Study ranked 14th out of 17 in legislative poll
Statutory oversight duties (30%)		
Retirement plan issues	20%	Monitoring implementation of "pension fix" bills and performing other pension oversight responsibilities.
Agency bill review for drafting	5%	Statute requires agencies to present their legislative proposals to the Committee in order for the bill draft request to be submitted.
Rule review	2%	Statute requires rule review be a topic on each agenda.
Review of required reports	2%	10 reports are required to be made to SAVA. These can be submitted in writing or presented at a Committee meeting..
Program monitoring	1%	Some agency activities may be of interest as an "emerging issue".
Other issues SAVA may wish to monitor (5%)		
HJR 17 - Pay plan study updates	2%	HJR 17 ranked 1st in the poll and requests a study of the state's pay plans. It has been assigned to the LFC,
HJR 2 - Electronic records study updates	1%	HJR 2 ranked 11th of 17. It requests a study of electronic records management by state and local government, including school districts. It was assigned to the Education and Local Government Interim Committee. The Secretary of State is the records manager for state government.
HJR 30 - Study of benefits available to veterans	2%	HJR 30 ranked last in the poll. It requests an inventory of all special benefits available to active members of the military and veterans. The Legislative Council chose not to assign this as an interim study but to handle this as an information request with reports to interested interim committees.
<b>TOTAL TIME</b>	<b>100%</b>	

## PROPOSED TENTATIVE MEETING SCHEDULE

*11 meetings - 8 one-day meetings and 2 two-day meetings*

### 2013

July 11 (Thurs) - *organizational, agency background, set priorities*  
August 21 (Wed) - *HJR 1 and SJR 14, adopt study plans*  
October 24 (Thurs) - *actuarial reports, HJR 1, SJR 14*  
December 9-10 (Mon-Tues) - *HJR 1, SJR 14 focus*

### 2014

February 6 (Thurs) - *HJR 1 and SJR 14 focus*  
April 8 (Tues) - *HJR 1 and SJR 14 focus*  
June 5-6 (Thurs - Fri) - *agency legislative proposals and required reports*  
August 12 (Tues) - *finalize HR1 and SJR 14 recommendations*  
November 14 (Fri) - *receive actuarial reports, may be a joint meeting with  
Legislative Finance Committee, finalize any pension  
recommendations*

## WHAT'S NEXT?

Staff will prepare a detailed interim work plan based on the Committee's priorities and tentatively adopted meeting calendar. At its next meeting, the Committee will review, revise, and adopt by majority vote a study plan for HJR 1 and SJR 14 based on the work plan priorities. The work plan priorities may be changed at any time by majority vote of the Committee.

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## ATTACHMENT A - MCA Sections

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, water policy committee, and state-tribal relations 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 and local government committee;
- (c) children, families, health, and human services committee;
- (d) law and justice committee;
- (e) energy and telecommunications committee;
- (f) revenue and transportation committee; and
- (g) state administration and veterans' affairs committee.

(3) An interim 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.

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.

(As amended by HB 41 and HB 53 during 2013 Session)

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; ~~and~~

(ii) the office of state public defender; ~~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) solicit and review proposed statutory changes to any of the state's public employee retirement systems;~~

~~(e) report to the legislature on each legislative proposal reviewed by the Committee. The report must include but is not limited to:~~

~~(i) a summary of the fiscal implications of the proposal;~~

~~(ii) an analysis of the effect that the proposal may have on other public employee retirement systems;~~

~~\_\_\_\_\_ (iii) an analysis of the soundness of the proposal as a matter of public policy;~~  
~~\_\_\_\_\_ (iv) any amendments proposed by the Committee; and~~  
~~\_\_\_\_\_ (v) the Committee's recommendation on whether the proposal should be enacted by the legislature.~~

~~\_\_\_\_\_ (f) attach the Committee's report to any proposal that the Committee considered and that is or has been introduced as a bill during a legislative session; and~~

~~\_\_\_\_\_ (g) (d) publish, for legislators' use, information on the state's 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 ~~contemplated under subsection (2)(d)~~ 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.

- END -

## ATTACHMENT B - HJR 1



A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM LEGISLATIVE STUDY REGARDING CERTAIN ASPECTS OF THE OFFICE OF COMMISSIONER OF POLITICAL PRACTICES; SPECIFYING OBJECTIVES OF THE STUDY; AND REQUESTING THAT FINDINGS AND RECOMMENDATIONS BE PRESENTED TO THE NEXT LEGISLATURE.

WHEREAS, the mission of the Office of Commissioner of Political Practices is to monitor and enforce, in a fair and impartial manner, campaign practices and campaign finance disclosure, lobbying disclosure, business interest disclosure of statewide and state district candidates, elected state officials, and state department directors, and ethical standards of conduct for legislators, public officers, and state employees and to investigate legitimate complaints that arise concerning any of the foregoing; and

WHEREAS, there is a range of options that could be considered for revising the selection and duties of the Commissioner and for changing the structure and operations of the office in Montana, including options for ensuring more immediate consequences for violating campaign laws; and

WHEREAS, a thorough interim study is needed to provide for further thoughtful, systematic, and bipartisan consideration of potential changes to the Office of Commissioner of Political Practices.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine:

- (1) the process for selecting a Commissioner of Political Practices;
- (2) the structure, composition, and duties of the Office of Commissioner of Political Practices; and

- (3) the enforcement authority of the Office of Commissioner of Political Practices, including options for ensuring more immediate consequences for violating campaign laws.



BE IT FURTHER RESOLVED, that the examination include a review of practices in other states, analysis of options, consideration of stakeholder concerns, and the development of recommendations to improve confidence in the integrity, objectivity, and capabilities of the Office of Commissioner of Political Practices.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

- END -

## ATTACHMENT C - SJR 14



A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO IDENTIFY OPPORTUNITIES TO MAKE COMBINED PRIMARY AND SCHOOL ELECTIONS FEASIBLE.

WHEREAS, Senate Bill No. 140, which would have combined school and certain primary elections, was introduced in the 63rd Legislature and tabled by the Senate Local Government Standing Committee after the Committee agreed to request an interim study directed at identifying ways to make combined elections feasible; and

WHEREAS, an interim study would focus an appropriate interim committee on identifying the technical elements of election administration that would need to be reconciled to have combined elections, including varying deadlines, election dates, authorities responsible for conducting and paying for elections, and varying local government boundaries; and

WHEREAS, the goal of an interim study is to provide the 64th Legislature with a plan for implementation of combined elections and coordination among applicable government agencies.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study local government and school district election laws and procedures to identify opportunities to combine elections.

BE IT FURTHER RESOLVED, that the study examine:

(1) existing dates, deadlines, and other procedures in Montana law that would require adjustment in order to conduct combined elections; and

(2) changes that election administrators would need to implement to combine primary and school elections, including:

(a) accommodating various administrative boundaries for jurisdictions holding elections, including state legislative, county, school district, city, and other district elections, and reducing voter confusion about these boundaries;

(b) administering the technical elements of combined elections, including the effects on overseas and military voters, different poll location and opening and

closing times, and which local government authority is responsible for election costs; and

(c) determining the responsibility for conducting combined elections that involve county election administrators and school district officials.

BE IT FURTHER RESOLVED, that the committee request participation of stakeholders in the election process, including county election administrators, the Office of the Secretary of State, school administrators and officials, and other interested parties as determined by the committee.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2014.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 64th Legislature.

-END-