



State Administration and Veterans' Affairs Interim Committee

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57th Montana Legislature

SENATE MEMBERS
DON HARGROVE - CHAIRMAN
JOHN BOHLINGER
GLENN A. ROUSH
KEN TOOLE

HOUSE MEMBERS
LARRY JENT - VICE - CHAIRMAN
EDITH J. CLARK
RALPH L. LENHART
ALLAN WALTERS

COMMITTEE STAFF
SHERI HEFFELFINGER
RESEARCH ANALYST
DAVID NISS, STAFF ATTORNEY
LOIS O'CONNOR, SECRETARY

July 26, 2002

MINUTES

Room 317, State Capitol
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.

COMMITTEE MEMBERS PRESENT

Sen. Don Hargrove
Sen. John Bohlinger
Sen. Ken Toole
Sen. Glenn Roush
Rep. Larry Jent
Rep. Allan Walters
Rep. Ralph Lenhart

COMMITTEE MEMBERS EXCUSED

Rep. Edith Clark

STAFF PRESENT

Sheri Heffelfinger, Research Analyst

AGENDA & VISITORS

Agenda (ATTACHMENT #1)
Visitors' list (ATTACHMENT #2)

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 9:10 a.m. by Sen. Hargrove. Roll call was taken (ATTACHMENT #3) with all members present except for Rep. Clark who was excused.

FINAL REVIEW OF COMMITTEE BILLS

Voting Systems

Sheri Heffelfinger, Research Analyst, Legislative Services Division, reviewed for the Committee LC 219 (EXHIBIT #1) which would ban the punch card ballot voting system and LC 220 (EXHIBIT #2) which would revise the voting system technologies and counting process.

Rep. Walters said that the bill contained a number of clean-up measures. Ms. Heffelfinger concurred and said that there are some repealers that repeal laws that are redundant or overlapping. She said that there are also some updated definitions.

Veterans' Affairs

Ms. Heffelfinger reviewed for the Committee LC 221 (EXHIBIT #3) which would restructure state veterans' affairs. She said that the bill would:

- Change the name of the Department of Military Affairs
- Make the Department the lead agency on veterans issues
- Provide rulemaking authority
- Make the Board of Veterans' Affairs an advisory council
- Revise Board membership
- Revise duties and responsibilities
- Authorize counties to provide for veteran service officers
- Authorize the establishment of additional state veterans' cemeteries

She said that the Committee has to fix the rulemaking authority as it must be given somewhere and in accordance with the Montana Administrative procedures act.

Sen. Bohlinger asked members of the Subcommittee to provide some of the comments from veterans' organizations regarding the bill.

Sen. Roush said that an audit of the Montana Veterans' Affairs Division provided several administrative recommendations. He said that the veterans he has spoken to have said that accessing services is very difficult. He said that the Board should play a greater leadership role. He said that he has not had any input from any Board member regarding LC 221.

Rep. Lenhart said that LC 221 is the result of what the Subcommittee heard from veterans' organizations and the auditors.

Sen. Hargrove said that the veteran participation and the legislative audit provided valuable information to the Subcommittee. He said that the guidance from the Board has been vague and LC 221 will provide some clarity. He said that he credits the veterans' groups with the changes that have been made.

Sen. Bohlinger asked if the language in LC 221 will improve access to services. Sen. Roush said that he hopes so. He said that he hopes that efficiencies will be improved by the administrative changes. He said that rulemaking authority by the Board was not possible due to a lack of funding.

John McEwan, State Personnel Division Administrator, Department of Administration, addressed the hiring authority contained in the bill and employee classifications. He said that

employees, regardless of who hires them, are covered by the Classification Pay Act.

Sen. Toole asked if the employees are covered by **MPEA**? Mr. McEwan said that he does not believe that they are organized at all.

Sen. Hargrove if there are longevity increases. Mr. McEwan said that there is a pay range within each field. He said that there is a longevity increase after five years.

PUBLIC COMMENT

Roger Hagen, Officer and Enlisted Association, Montana National Guard, asked about the Department administering the state veterans' cemetery program. He said that if term veteran is applied as it is in the rest of the statute, then that precludes a national guard or reserve member from being buried in state veterans' cemeteries. He asked that the Committee provide clarification to insure that the national guard and reserve members are not excluded.

Ms. Heffelfinger said that that was an oversight in the bill and the Committee can make that change.

Sen. Hargrove said that it is not the intention of the Committee to exclude the national guard. Sen. Hargrove asked that the change be made, at least conceptually.

Thomas Pouliot, Veterans of Foreign Wars, asked if it was possible for the Board to have rulemaking authority.

Ms. Heffelfinger said that current laws have the Board attached administratively to the Department of Military Affairs. She said that administrative attachments does not mean that the Department can adopt rules that implement a program under the Board.

Mr. Pouliot said that many of the veterans organizations have not had the opportunity to address the Committee regarding this issue. He said that he rises in opposition to this. He said that if rulemaking authority can be given to the Board then that will address some of the problems that have been raised today. He said that his organization does not like this bill and would not like to see it go forward.

Mike Seacrease, Veteran Service Officer, Vietnam Veterans of America, said that he is in support of the bill. He said that the system is broken and it does need to be fixed. He said that this is a strong approach.

Stephen Joppa, Commandant, Department of Montana Marine Corp League, said that they are in support of the proposed legislation (EXHIBIT #4).

Carl Nordberg, State Commander, American Legion, said that the American Legion opposes this bill. He said that they have a long term relationship with the MVAD and would not like to see that relationship jeopardized because of the changes made in the bill.

Dan Antonetti, Legislative Chairman, Veterans' of Foreign Wars, said that they oppose LC 5551.

Art Heffelfinger, Vietnam Veterans' of America, said that he is in support of the legislation. He read to the Committee a document that was distributed to all VISN directors. He said that the Veterans' Health Institution stated that marketing was no longer to be done in any of the regions in relationship to health care services. He said that there is a great amount of inconsistency in veteran services in Montana.

Karen Furu, Board Member, Montana Veterans' Affairs Division, provided information to the Committee regarding her negative personal experiences with the federal veterans' administration. She said that there is a definite difference between the state and federal services. She said that the bill will not fix the federal issues. She said that there also needs to be documentation to facilitate a claim and there are veterans who try to falsify claims. She said that the Board sent a letter to the Committee on June 3, 2002 detailing their recommendations. She said that the Board opposes the bill but is willing to discuss alternatives to the Committee.

Alan Armstrong, Vice President, Vietnam Veterans of America, said that the system is broken and it needs to be fixed.

Earl Vermillion, State Commander, Disabled American Veterans, said that he has worked for the MVAD and it was a constant battle to workout the budget. He said that there is a difference between rulemaking and policy making. He said that the Board has never intended to make rules. He said that the proposed bill will create more problems than it will solve.

Keith Heavy Runner, Tribal Veteran Representative, said that he is in support of the bill. he proceeded to detail a number of problems with the current system and feels that the bill is a step in the right direction.

Mike Hampson, President, Vietnam Veterans of America, said that the bill as it is drafted comes from discussions from all of the meetings. He said that he believes that the Board is currently unresponsive and self serving.

John Duncan, Disabled American Veterans, said that Mr. Vermillion does not speak for him and he does believe that the bill should be passed.

Lee Smith, Disabled American Veterans, provided his negative personal experiences with the Board and said that he strongly supported the bill.

Ruben McKinney, Montana Veterans Affairs Division, said that the MVAD has brought \$51 million into the state last year. He presented to the Committee his personal negative experience with the VVA. He said that he does not believe that the bill will support veterans. He said that they have a high caliber of employees for the amount of money they are paid.

Keith Blankenship, Vietnam Veterans of America, said that he is in total favor of the bill.

Mr. Smith said that the results of these meetings is not to imply that the MVAD has bad employees or that they are not doing their job. He said that they are simply trying to provide better accountability.

Mr. Pouliot provided to the Committee a copy of the letter from the Board (EXHIBIT #5). He said

that he does not agree with expanding the Board to include non-veteran members.

Sen. Hargrove said that there will be additional Committee discussion and they will work with Ms. Heffelfinger to re-draft portions of the bill if requested by the Committee in executive action.

Ms. Heffelfinger said that LC 222 was a bill to consolidate vehicle taxes, property taxes, and special license plates. She said that she has not had time to draft that bill. She said that with respect to LC 223, she has not had the opportunity to work on the definition of veteran.

Public Employee Retirement

Ms. Heffelfinger presented to the Committee LC 224 (EXHIBIT #6) which would eliminate the requirement that a member of the Public Employee's Retirement System must have at least 10 years of service credit to purchase military service.

Rep. Jent asked what 19-3-514, MCA is. Ms. Heffelfinger said that is the limitation on five total years of additional purchased service. Rep. Jent asked what a vested member is. Ms. Heffelfinger said that to be vested a member must have at least five years of actual membership service.

Ms. Heffelfinger reviewed for the Committee LC 225 (EXHIBIT #7) which would allow state and local elected officials to opt out of returning to active membership in the system and to continue to receive their retirement benefits. Ms. Heffelfinger reviewed for the Committee LC 226 (EXHIBIT #8) which would allow Montana Air National Guard Firefighters covered by the PERS to transfer to the Firefighters' Unified Retirement system.

Sen. Roush asked if the whole body would have to go with an election. **Mike O'Connor, Director, Public Employees Retirement System**, said that it would be an individual election. Sen. Roush asked how many personnel could be affected. Mr. O'Connor said 24.

Rep. Lenhart asked what the intent is of the firefighter to choose. Mr. O'Connor said that city firefighters are in the FURS system and these are firefighters and they should be in a public safety type of retirement system. He said that one of the biggest reasons is the disability benefit.

Sen. Bohlinger asked about the \$2.7 billion investment in view of the collapse of the market. Mr. O'Connor said that they are in the middle of processing their year-end financial statements. He said that he will know the current fund balance at the end of the month. He said that the state will be able to weather the economic storm.

Ms. Heffelfinger reviewed for the Committee LC 227 (EXHIBIT #9) which would provide an enhanced retirement benefit called the professional retirement allowance to certain members of the teachers' retirement system who attain specified eligibility requirements.

Dave Senn, Teachers' Retirement System, said that this bill was drafted during the last legislative session. He discussed amortization rates with the Committee. He said that he would provide actual numbers regarding the program in September. He said that the bill encourages teachers to work longer and encourages retirees to come out of retirement. He said that it would

go a long way in recruiting teachers.

Rep. Walters asked about the 1.9% and the actual dollars associated with that number. Mr. Senn said that it is approximately \$11 million per year. Rep. Walters asked for how long. Mr. Senn said 25 years.

Tom Bilodeau, Research Director, MEA-MFT, said that the effective date cannot be 2003. He said that they would suggest a July 1, 2004 effective date. He said that they do not have to impose the additional contribution in each year of the biennium which would cut the fiscal note in half. He commented on the July 1, 2005 date and there are a number of educators who would retire in May 2005. He would suggest moving the applicability date from July 1 to May 1.

Sen. Toole asked what the cost is in taking this approach vs. using this money to improve entry level wages. Mr. Bilodeau said that the early retirement incentives encourage people to terminate earlier than they might otherwise. He said that the large number of vacancies needs to be addressed. He said that the base rates are 25% behind competitive states, so bonuses that are offered to new teachers is not as appealing. He said that they could not afford to increase wages by \$6,000 to \$8,000 for our least experienced workers as this would seriously affect moral and other problems. He said that if you are trying to attract and retain over a long period of time, then you need to address both the new teachers and the retiring teachers. Sen. Toole asked about the differential in salary. Mr. Bilodeau said that across the spectrum the money provided for the retirement system would result in an 2% pay increase. He said that if you look at only the new hires, there would be a substantial increase. However, if you do that, then existing teachers would not be happy. Sen. Toole asked about the salary differential if a mid career teacher was offered the increase. Mr. Bilodeau said that they have not looked at that specifically.

Julia Flynn, Peace Corps Volunteer, said that they seek legislation which would allow returning volunteers to purchase retirement credit for the time they served in the Peace Corps. She also provided a letter sent to Sen. Conrad Buns and corresponding articles on the issue (EXHIBIT #10).

Sen. Hargrove said that the Committee will review the issue later in the meeting.

Ms. Heffelfinger presented to the Committee LC 294 (EXHIBIT #11) which would allow county detention officers to transfer from PERS to the Sheriffs' Retirement System.

ADDITIONAL REQUESTS TO AUTHORIZE DRAFTING OF AGENCY LEGISLATION

Office of the Secretary of State

Jason Billman, Chief Deputy Secretary of State, Office of the Secretary of State, presented to the Committee an additional legislation request (EXHIBIT #12) regarding the management of state government records.

Elaine Gravely, Election Deputy, Office of the Secretary of State, presented to the Committee additional legislation regarding changes in the elections process as detailed in exhibit #12.

Sen. Toole asked about the dates that the petition is signed. Ms. Gravely said that a lot of petitions are done over the internet and the Secretary of State's office wants to make sure that the petition was not completed before the process was approved. Sen. Toole asked if that has been a problem. Ms. Gravely said yes. Sen. Toole said that he believes the process will create less room on the form to write and will be even more difficult to decipher when the form is turned in. Sen. Toole suggested having the text on the sheet dated.

Sen. Roush asked about soliciting signatures for an initiative and if the person soliciting has to be a registered voter. Ms. Gravely said no. Sen. Roush said he believes that people soliciting signatures should be informed on the issue. Ms. Gravely said that the law does not specifically address the issue, but she will research the question further.

Sen. Toole said that a lot of campaigns have high school students involved and moving to only registered voters would eliminate that opportunity for the students.

Rep. Jent said that there is a problem with prohibiting anyone from advocacy or opposition based on the first amendment. He said that he does not believe that there can be a prohibition on it.

Ms. Gravely said that she would provide the information after lunch.

Ms. Heffelfinger said that based upon Ms. Gravely's proposal, the Committee would have to create four separate bills because of the topic differences.

Pat Haffey, Deputy for Business Services, Office of the Secretary of State, presented to the Committee proposed legislation changes regarding reengineering processes at the Business Services Bureau as detailed in exhibit #12.

The Committee had no objections to drafting the proposed legislation from the Office of the Secretary of State.

Department of Administration

Jerry LaChere, Director, Montana Lottery, presented to the Committee proposed legislation (EXHIBIT #13) regarding multi-jurisdictional games even if a lottery from outside the United States participates in the game.

Sen. Bohlinger said that he spoke against the proposal because it is his personal belief that the lottery is a fool's game. He said that he believes that the lottery preys on the poor of our state. He said that he would like to see the Montana get out of the lottery.

Sen. Hargrove asked if this is simply to allow Montana to participate in the lottery with other countries. Mr. LaChere said that it is to allow that situation to take place. Sen. Hargrove asked why Montana would be prohibited from allowing the games we have now. Mr. LaChere said that if there is a country from outside the U.S. that joins Powerball, our law reads that we can participate with other states, not other countries. Sen. Hargrove asked about if anyone in the world would then be allowed to win Powerball. Mr. LaChere said that anyone who purchases a ticket anywhere can win.

Rep. Lenhart asked if we would be expanding gambling or the lottery in Montana. Mr. LaChere said no. He said that we are simply trying to maintain the agreements that we are already allowed to do.

Sen. Hargrove asked what the insurance is that participating countries uphold the same standards. Mr. LaChere said that they would be held to the same standards as other states. He said that there is a complete review of the systems. Sen. Hargrove asked if auditors would be sent to other countries to audit their systems. Mr. LaChere said yes. Sen. Hargrove asked if we could include that in law. Mr. LaChere said that is already part of the procedure that is in place with the association.

Rep. Walters concurred with Sen. Bohlinger's comments. He said that he would much rather see a sales tax than further expansion of gambling in the state.

The Committee objected to moving forward with the proposed legislation.

Roger Hagen, Great Falls Airport Firefighters, Montana Air National Guard, commented on the added employers cost for the contributions to the Firefighters' unified Retirement System. He said that he will work to acquire a supplemental agreement to the existing agreement. He said that those costs for the firefighters are federal, special revenue, pass-through funds from the National Guard Bureau. He said that they hope to have the supplemental agreement available in September.

Melanie Simmons, Legal Counsel, Public Employees Retirement Association, presented to the Committee a proposed legislative change to the defined contribution plan. She said that they would like proper reporting to come from the employer and not from PERA. She said that she believes that this may require a two-thirds vote. Therefore, PERA would like to separate that out of the housekeeping general revisions bill.

The Committee did not object to Ms. Simmons request.

OTHER MISCELLANEOUS SAIC BUSINESS

Ms. Heffelfinger said that the SJR 5 Subcommittee requested an opportunity to meet with the congressional delegation one on one. She said that at Sen. Burn's invitation, a meeting has tentatively been scheduled with the Secretary of the Veterans Administration, Anthony Principi in September. Ms. Heffelfinger has also begun a draft of a letter to the congressional members asking for a meeting. She asked the Committee to review the language of the letter and provide recommendations.

Holly Luck, Senator Baucus's Office, said that they share the legislature's frustration with federal agencies. She said that the September Legislative Commerce calendar prevents frequent travel to Montana. She said that Sen. Baucus will be working five days per week and have weekends available. She said that the obvious option is to work with the appropriate staff within the office that deals strictly with veteran issues.

Jeff Gerrard, Congressman Rehberg's Office, concurred with Ms. Luck's comments. He said that he will submit the letter to the Washington D.C. office that deals with veteran issues.

He will attempt to set-up a briefing time with Congressman Rehberg.

Sen. Hargrove said that efficiency is not one of the Committee's concerns with the exception of money. He said that the Committee would be willing to meet on a weekend and in a different location. He said that he does not anticipate numerous results from the meeting. His feeling from the Subcommittee is that the implied interest by the principals based upon their presence is what is most needed. He said that it is not merely a matter of form, it is important to have the face-to-face contact.

Sen. Roush said that he supports the idea of meeting with the congressional delegation and concurs with the Sen. Hargrove that it will be difficult for the Committee to meet with all three members. He said that he understands the congressional delegations constraints. However, he said that the SJR 5 Subcommittee had a commitment from the delegation that they would support the resolution. He said that the delegation has sent representatives, but it is important to meet with them directly. He said that one of the biggest caseloads in Montana is veterans' issues. He said where they may be able to help us is through funding.

Mr. Gerrard said that Congressman Rehberg is well aware of the legislature's efforts on SJR 5. He said that he has not been able to attend every meeting, but Ms. Heffelfinger has forwarded numerous amounts of information. He said that Congressman Rehberg has publically supported the legislature's efforts and acts when and where he can.

Sen. Hargrove asked for Mr. Gerrard and Ms. Luck to coordinate a joint meeting that the Subcommittee will attend.

Rep. Lenhart said that if such a meeting is going to be successful, representation from Fort Harrison will be necessary. He said that if Fort Harrison is not going to be here then the words will be lost.

Ms. Heffelfinger asked for the Subcommittee to clarify whether the meeting involves a public hearing or a meeting between the congressional delegation, Fort Harrison, and the Subcommittee. She asked for clarification on the intent from the Subcommittee.

Mr. Heffelfinger said that Mr. Principi's secretary has indicated that he can be made available to the congressional delegation as well as the state legislature. He said that he would be willing to help coordinate a meeting for the Subcommittee members. He said that he does not believe Mr. Principi would be amenable to a public hearing.

Sen. Hargrove said that if Mr. Heffelfinger has a contact that can coordinate the meeting then that would be great. He said that he believes that the principals have tremendous importance over any levels of staff that could attend. He said that he envisions representatives from major veteran services groups being in attendance to introduce themselves.

Mr. Heffelfinger said that it is his understanding that that is precisely the thing that Mr. Principi has in mind. He said that he believes Mr. Principi would be more comfortable in an informal setting.

Sen. Hargrove said that that could be arranged. He asked Mr. Heffelfinger to proceed with the

coordination efforts.

Sen. Roush said that the basis of the letter identifies what the Committee is discussing regarding the federal VA issues. He said that it needs to be addressed in the letter that federal representation needs to help the state.

Sen. Toole said that he is not familiar with the issue at all. He said that from what he has heard today, the disconnect between state and federal programs needs to be mentioned.

Sen. Hargrove asked if a letter could be coordinated via mail and e-mail. Ms. Heffelfinger said yes.

Ms. Heffelfinger spoke to the Committee regarding the letter sent from the Committee to the Legislative Finance Committee regarding the audit recommendations and requests for additional funding. The Committee concurred that the language was appropriate.

DISASTER AND EMERGENCY SERVICES PROPOSAL

Rep. Sylvia Bookout-Reinicke requested that members of the Committee work with her to create a disaster and emergency services proposal regulating the transportation of nuclear material through Montana.

Sen. Roush asked if Rep. Bookout-Reinicke was only referring to rail transportation. Rep. Bookout-Reinicke said that she was referring to all transportation of nuclear waste.

Jim Greene, Administrator, Disaster and Emergency Services (DES), said that they have received hints that Montana may become a transportation route for high level nuclear waste. He said that the reason is to avoid some of the larger metropolitan areas. He said that if the federal government decides to transport nuclear waste, they will give the state notification 72 hours beforehand. He said that if there was to be a fee system established for the transportation of nuclear material, DES would like to see the fee used for the extra costs associated for local and state governments to move the material through the state as well as pay for training.

Mr. Greene also provided an update to the Committee regarding Homeland Security. He said that they are in the process of distributing funds to local governments. He said that their main priorities are to have Lewis and Clark County be recognized as a fully-functioning hazardous material team and bring rural jurisdictions up to the basic standards. He said that they expect the President to sign the supplemental which will create \$100 million nationwide for state and local government planning.

Sen. Bohlinger asked if the federal government has given Montana \$880,000 for homeland security. Mr. Greene said that this is the second round of money. He said that the first round was \$350,000 for local government. He said that they have completed the application process for \$883,000. He said that they are still applying for an additional \$2.2 million which will go to local government for equipment. Sen. Bohlinger asked Mr. Greene to define the five regions within the state. Mr. Greene said that the five teams are in Billings, Bozeman, Missoula, Flathead County, and Great Falls. He said that they are trying to create a sixth team in Helena.

Sen. Toole asked if there are current security protocols in place for moving nuclear waste. Mr. Greene said that in other areas, the states decide if they would like to escort the materials or create a fee system.

Sen. Hargrove asked if other states have a system similar to what is being proposed. Mr. Greene said yes. Sen. Hargrove asked if the state could stop the transport of nuclear material through the state. Mr. Greene said that he does not believe the state could stop it.

Burt Obert, Chief, Montana Highway Patrol, presented to the Committee processes that other states use to transport nuclear waste. He said that most states have a purchase order process that is billed back to the shipper for the additional number of officer necessary to escort the material. He said that this would result in no direct cost to the state. He said that other states have an annual contract. He said that there are a lot of states that have done this so Montana can implement a procedure relatively quick.

Sen. Hargrove asked about the invoice and if that was solely for the cost of escorts. Mr. Obert said yes.

Sen. Bohlinger asked about states that provide escort services only through large cities and what he would anticipate for Montana. Mr. Obert said that the concern is not the area they are in, but whether or not there is a terrorist threat or possibility of a crash. Sen. Bohlinger asked what Montana is going to request from the federal government in terms of escort services. Mr. Obert said that they would require escorts all the way through the state. He said that if the request needs to be less then they can do it.

Roger Chalmers, Missoula, said that nuclear waste will move through the state. He read an excerpt from an article regarding the transportation of plutonium. He said that it is up to Montana to insure that all towns, large and small, are protected.

Rep. Bookout-Reinicke said that there are 25 other states that charge for inspections or escorts. She said that Montana needs to recoup their costs plus extra for training and equipment. She said that the citizens need to know that the state is providing the best possible protection. She said that she would like to sit down with all interested parties and draft the bill.

Rep. Lenhart asked if the bill would only cover nuclear waste or all hazardous material. Rep. Bookout-Reinicke said that it would only cover nuclear waste.

Sen. Hargrove asked Mr. Greene about the costs to the state and training. Mr. Greene said that if the committee to create the bill was put together, they would invite someone from the Nuclear Regulatory Commission to provide information and put a price tag on the different scenarios.

The Committee determined that they would draft Rep. Bookout-Reinicke's proposal.

Sen. Hargrove asked who should be on the committee to determine the costs associated with the transport of nuclear waste. Mr. Greene said that the key people presented to day along with the railroad, trucking industry, law enforcement, health department, legislature, and specialists.

Ms. Heffelfinger said that the drafter would contact the sponsor and it would be up to the

proponents and opponents to determine what they would like in the bill and provide direction to the drafter. Ms. Heffelfinger said that Rep. Bookout-Reinicke would work out the details of what she would like to have happen with the group and then contact the drafter with the details.

REDISTRICTING

Susan Fox, Research Analyst, Legislative Services Division, provided an informational briefing to the Committee on the redistricting process and staff analysis of broader issues involved in gathering and providing access to voter information. Specifically, she provided to the Committee the *Criteria and Operational Guidelines for Legislative Redistricting* (EXHIBIT #14) and the *Request to Develop Options for Participation in the Redistricting Data Program of the U.S. Bureau of the Census* (EXHIBIT #15).

Sen. Hargrove asked about county population samples and if that information can be provided. Ms. Fox said that information can be provided.

Sen. Bohlinger said that there is concern over the guidelines and the way districts develop. He said that there seems to be a question as to the commonalities that constituents share within a district. Ms. Fox said that the Commission has provided their justification for the districts. She said that the Commission members who adopted the plan believe that they still qualify as communities of interest. She said that she does realize that different groups have different interpretations. Sen. Bohlinger asked who makes the final approval. Ms. Fox said the Commission.

Sen. Roush asked if counties that are split can be put on the map. Ms. Fox said that she can create insets for towns that are split and they are on the website.

Sen. Hargrove asked if precincts are defined by population. Ms. Fox said that there are some population requirements but they are not necessarily defined by them. Sen. Hargrove asked how the Supreme Court defined the 10% margin. Ms. Fox said that it is not in statute, but it is in case law. Sen. Hargrove asked if there is a way to make the process more predictable and the populous more confident in their legislators. Ms. Fox said that she has an information request in at this time to address his concerns and the process throughout the state. She hopes to have a better analysis at a later date.

Sen. Bohlinger asked about precinct numbers. Ms. Fox said that numbers are assigned by the clerks and recorders.

Sen. Hargrove asked if legislation could come out of the Committee to look at changing the redistricting process. Ms. Fox said that she hopes to have a report about criteria.

Rep. Lenhart said that he questions any proposed legislation and asked if that would disrupt the current process. Ms. Fox said no. She said that the Commission will most likely be done with their work.

Ms. Fox said that if the Committee did want to affect the redistricting process, the best time to do so would be in the coming session. She said that one proposal would be to assign the Block Boundary Suggestion Project and the Voter Tabulation District Program to an Executive Branch

Agency to achieve better coordination with the U.S. Bureau of Census.

Sen. Hargrove said that the Committee looks forward to receiving her report.

PUBLIC COMMENT

Roger Hagen, Officer Enlisted Association, National Guard, said that his association is concerned about the revenue from veterans' license plates. He said that HB 124 made a number of changes on revenue collections. Specifically, the bill allowed revenue from the sale of license plates to go directly to the general fund rather than the veterans' cemetery fund. Mr. Hagen encouraged the Committee to review the issue and look at the impact to veterans.

Sen. Bohlinger asked how much money was being generated through the sale of veterans' license plates. Mr. Hagen said that he does not have those specific numbers but could provide them to the Committee at a later date.

Ms. Heffelfinger said that there is a statute in Title 15 which transfers the money from the general fund into the special revenue account. She said that the money is still earmarked, but the legislature needs to give spending authority to the Department. She said that the EPP proposal to spend the money is currently pending.

Sen. Roush asked if there is anything the Committee can do to clean-up the language and reinforce what the money is suppose to do. Ms. Heffelfinger said that the Committee could put in clarification of the internal references or create a statutory appropriation. Sen. Roush said that he is concerned about the cemetery fund and would like to protect it.

Sen. Toole said that he supports the fund and asked if the funds were being used solely for the cemetery. Mr. Hagen said that the funds are statutorily required to be used solely for cemeteries. Sen. Toole asked if the concern is being brought forward because the funds are not being used for that purpose. Mr. Hagen said that the concern is that the sale of veterans license plates will decrease when veterans learn that the money is going directly to the general fund. Sen. Toole said that he can understand the anticipation of the problem, but he would like to wait until there is a problem.

Ms. Heffelfinger said that she included language regarding the funds transfer in LC 221. She said that may be sufficient language to resolve the issue.

Mr. Hagen provided to the Committee a document detailing the cemetery fund (EXHIBIT #16)

COMMITTEE DISCUSSION

Sen. Hargrove asked about the Peace Corps proposed legislation. Ms. Heffelfinger said that current law allows any member of PERS that is a vested member to purchase one year of service for every five years of membership service. She said that the cost to purchase is full actuarial cost. She said that the concern of the Board was that Peace Corps members could not document years of service. She said that that issue was resolved today. She said that the other concern was what other volunteer services may qualify.

Sen. Toole asked if Peace Corps volunteers receive a stipend. Ms. Flynn said yes. She said that the stipend helps cover living costs along with \$200 per month that goes into an account for when they leave the Corps. Sen. Toole asked if the Peace Corps was a government agency. Ms. Flynn said that the Peace Corps is a federal program which would differentiate it from the Red Cross and Disaster Emergency Services. Sen. Toole asked how many Peace Corps members would be eligible. Ms. Flynn said that through unofficial networking that there would be between 18 and 24 return Peace Corps volunteers who are members of PERS.

Sen. Hargrove asked about purchasing at actuarial cost. Ms. Heffelfinger said that there would be no affect to the pension trust fund because the Peace Corps members would have to buy the service for whatever it costs at the time. Sen. Hargrove asked if the Peace Corps time would add to the five years they can get. Ms. Heffelfinger said yes. Sen. Hargrove asked if all the services are limited to five years. Ms. Heffelfinger said yes. She said that the other issue is that some service counts toward your eligibility for retirement and some service does not.

Sen. Toole said that he would like to see something drafted and a definitive number of people who would participate. Sen. Toole asked if VISTA was a similar program. Ms. Heffelfinger said that she did not know. Sen. Toole said that this warrants examination because this is the type of public service that we would like to encourage.

Sen. Hargrove asked if Ms. Flynn knew the number of people who would want this type of service. Ms. Flynn said that she could try and provide that information. Sen. Hargrove said that the Committee should find out what other volunteer organizations exist that may want this type of benefit.

FINAL REVIEW OF COMMITTEE BILLS (Continued)

Veterans' Affairs

Sen. Hargrove asked for continued Committee review of LC 221 (EXHIBIT #3) which would restructure state veterans' affairs.

Ms. Heffelfinger said that the law could be fixed in two ways. She said that the Committee could choose an agency under the Department of Military Affairs or they could choose an agency that is simply attached to the department. For basic administrative support.

Sen. Hargrove said that when he first began this process, his feeling was that the Board should be the driving force behind veteran issues in the state of Montana. However, in statue, the Board does not have the appropriate authority to do so. He said that he could see some positive aspects of the reorganization.

Ms. Heffelfinger said that any decision made is going to be very difficult. She said that she would like the opportunity for the Committee to understand current law. Ms. Heffelfinger reviewed for the Committee *Montana Veterans' Affairs: Statutory Provisions related to Administrative Attachment and Rulemaking* (EXHIBIT #17).

Sen. Hargrove asked if the Department of Military Affairs, which has the authority to adopt the rules right now, could assume rulemaking authority for the Board. Ms. Heffelfinger said that

there is a void in the civilian side of rulemaking authority for the Department. She said that either choice the Committee makes the bill draft would require a rulemaking section that gives authority to the Department or it has to have a rulemaking section that gives it to the Board. She said if it is given to the Department, then the Board no longer has a job. Which is how the Board would take on an advisory role.

Sen. Roush said that this is what the Subcommittee has been discussing for the last few meetings. He said that it was not an easy decision to make the Subcommittee recommendation. He said that the issue is reduced to dollars. He said that unless additional revenue can be given to the Board so that they can take on rulemaking authority the only alternative is to give authority to the Department. He said that it would be a disservice to the legislature to present the current bill.

Sen. Hargrove said that the Committee is obliged to do something because the law has been negligent in the past.

Rep. Lenhart asked Ms. Heffelfinger if the Board is put under the Department does the Department assume the rulemaking authority. If so, can the Department delegate the rulemaking authority to the Board? Ms. Heffelfinger said that if the Board is administratively attached, then the DMA would only provide administrative support and not staff.

Sen. Roush asked about the performance audit and if that has any bearing on what the Committee can and cannot do. Ms. Heffelfinger said that the audit recommend the Committee amend the statute and take the DMA out of the cemetery program and give it to the Board. She said that to do this, the Board must be given rulemaking authority which requires resources.

Rep. Jent asked about needing resources to adopt rules and if they can be used via administrative attachment. Ms. Heffelfinger said that the Board is attached to a Department is to comply with 20 departments as provided by the Constitution. Rep. Jent asked why the DMA cannot adopt rules with the concurrence of the Board. Ms. Heffelfinger said that the policy is that rulemaking authority is a function of the agency.

Rep. Toole said that rulemaking is not an administrative function. He said that the question is why should there be a Board. He said that he has not heard a strong philosophical argument as to why there should be a Board, which makes him lean toward putting the Board under the DMA. He said that the Committee has to make a decision one way or another.

Sen. Hargrove said that the efficiencies need to be looked at. He said that the Committee would be giving General Prendergast the authority to continue the work he is already doing. He said that it is the legislature's responsibility to make a recommendation. He said that he supports the recommendation of the Subcommittee.

Sen. Roush said that he spoke with Mr. Follet who represents the VFW and he opposed the bill. He suggested to Mr. Follet that his organization present to Ms. Heffelfinger an option to address the rulemaking authority and Mr. Follet said that he would make a presentation to Ms. Heffelfinger.

Ms. Furu said that the question is if rulemaking authority is given to the Board and they are

attached to DMA can the Board use DMA resources to create rules. Ms. Heffelfinger said that the Board would have to go to the Department of Justice as there are ways to gain administrative support. She said that the Board cannot determine that they need to adopt a rule and ask the DMA to do it for them. Ms. Furu asked if the Board could use the DMA attorneys and Personnel Officer. Ms. Heffelfinger said that the Board has to go to the Department of Justice to obtain the legal expertise to adopt rules in accordance with MAPA.

Ms. Furu said that as a Board member she would like the Committee to give them rulemaking authority and have the Board worry about where the resources will come from.

Sen. Toole said any other agency could provide legal staff to comply with MAPA but the question is why would they?

Rep. Lenhart asked if action could be delayed until the next meeting. Sen. Hargrove asked why. Ms. Heffelfinger said that the next item on the agenda is the letter to the congressional delegation. She said that she is reluctant to request the meeting without a definite direction by the Committee.

Sen. Roush moved that the Committee adopt LC221. The motion passed unanimously.

Sen. Roush moved to change the number of Board members to five. The motion passed unanimously.

Sen. Hargrove asked the Committee to discuss the letters to the congressional delegation.

Sen. Roush said that he supports the county veteran service officer idea. Sen. Hargrove said that there is some concern that the language is enabling only.

Sen. Roush said that they can adopt something today and make changes at the next meeting.

Ms. Heffelfinger said that at the Special Session, she will work on draft language and the Committee members can comment on the language. After that she will work on the language for the congressional delegation. She said that she will add some data regarding the expenditures in Montana.

Sen. Roush asked about LC227 and the effective date. Sen. Hargrove said that the dates have been taken down as conceptual. Ms. Heffelfinger concurred.

Ms. Heffelfinger said that the HJR1 Subcommittee on Mental Health also wants a strongly worded letter to the congressional delegation regarding cost shifting. She asked how the Committee would like to coordinate that correspondence as well. She said that staff can coordinate, but Committee members need to converse as well and determine if they want a joint letter.

Sen. Hargrove said that he would like the letter from the Committee to be similar to an executive summary.

Sen. Toole asked about the content of the letter. Ms. Heffelfinger said that they looked at the

structure of the VA's mental healthcare system and the cost shifting that was occurring. She said that their letter is not so much substantive as it is expressing a concern and letting the congressional delegation know that it is being reviewed. Sen. Toole said that for the Committee letter, he would like a specific example regarding cost shifting. Ms. Heffelfinger said that she would meet with Ms. Steinbeck.

Sen. Hargrove asked for the agenda for the next meeting. Ms. Heffelfinger said that the next meeting would address the new proposals received today.

Sen. Hargrove asked about LC 221. Rep. Lenhart said that he would like to see it back on the agenda. Sen. Roush said that he does not want to here the same thing, but it could be on the agenda for an hour. Rep. Jent said that if it is in an executive session, no public comment is required. Sen. Toole said that he would like it on the agenda again to hear from any additional members of the public.

Ms. Heffelfinger said that the advisory council could be key to bringing various veterans groups together. She said that the Board does not represent all of the various groups. She said that the purpose for the advisory council is to coordinate legislation. She said that if the Committee structures the advisory council to be a true interagency collaboration, it would be a very functional group and energize the Board. Sen. Hargrove concurred. Ms. Heffelfinger asked if the Committee would like her to proceed with a formal draft for the next meeting. Sen. Hargrove asked Ms. Heffelfinger to proceed.

ADJOURNMENT

The meeting adjourned at 5:35 p.m.

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