



POLITICAL PRACTICES, ELECTIONS & EMERGING ISSUES

A Report to the
64th Legislature

December 2014

2013-2014

State Administration and
Veterans' Affairs Interim
Committee

This reports summarizes the activities,
research findings, and
recommendations of the committee
during the 2013-2014 interim.

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

STATE ADMINISTRATION AND VETERANS' AFFAIRS
INTERIM COMMITTEE 2013-2014

Before the close of each legislative session, the House and Senate leadership appoint lawmakers to interim committees. Under section 5-5-211, Montana Code Annotated, interim committees must be bipartisan and the appointing authority shall attempt to select not less than 50% of the members from the standing State Administration Committees and at least one member from the joint subcommittee that considers the related agency budgets.

MEMBERS

Senators

Dee L. Brown (R) – Hungry Horse
Presiding Officer

Larry Jent (D) – Bozeman

Dave Lewis (R) – Helena

Sue Malek (D) – Missoula

Representatives

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Vice-Presiding Officer

Joanne Blyton (R) – Joliet

Doug Kary (R) – Billings

Kathy Swanson (D) – Anaconda

Staff

Sheri Scurr, Research Analyst
K. Virginia "Ginger" Aldrich, Staff Attorney
Kristina Liming, Secretary



PO Box 201706
Helena, MT 59620-1706
Phone: (406) 444-3064 FAX: 444-3036 Web: <http://leg.mt.gov>

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Summary of Recommendations

House Joint Resolution No. 1 - Study Office of Commissioner of Political Practices

LC 303 (SB 16) Require the governor to appoint the Commissioner of Political Practices from the nomination committee's list of nominees. *(Unanimous)*

Senate Joint Resolution No. 14 - Study Election Laws

LC 143 (HB 84) Revise election laws to clarify terminology and standardize certain dates and deadlines for state, county, city, school district, community college district, and special purpose district elections. *(Unanimous)*

Pension Oversight - Statutory Duty

LC 332 (SB 42) Revise the allocation of employer contributions in the PERS Defined Contribution Plan and in the University System Retirement Program Defined Contribution Plan.¹ *(Unanimous)*

Emerging Issues

LC 145 (SB 1) Clarify that the Secretary of State has the authority to charge certain administrative fees. *(Unanimous)*

LC 146 (SB 13) Revise the disclosure statement concerning voting records that is required to appear on campaign materials to address a Montana Supreme Court ruling that certain statutory language concerning the disclosure provisions was unconstitutionally vague. *(Passed 5 to 3, Sen. Lewis, Rep. Blyton, and Rep. Kary voting no.)*

LC 304 (SB 27) Revise interim committee oversight of certain agencies. This bill was drafted with a broad title to allow amendments, but as approved by the Committee would move legislative oversight only of the State Tax Appeal Board from the Committee to the Revenue and Transportation Interim Committee. *(Unanimous)*

Veterans Letter to recommend to House Appropriations funding for an additional Montana Veterans' Affairs Division service office in Glasgow. *(Unanimous)*

¹ For further information about this proposal and SAVA's pension oversight activities, please refer to *Montana Legislator's Guide to Montana's Public Pension Plans - 2014* published by the Montana Legislative Services Division.

A copy of the recommendation letter on veterans' affairs and of each bill draft as approved by SAVA -- except for LC 143 due to its length -- is provided at **Appendix A.**

A section-by-section summary of LC 143 is provided at **Appendix B.**

CHAPTER 1
House Joint Resolution No. 1:
Study of the Office of Commissioner of Political Practices

Issue background

House Joint Resolution No. 1 was drafted by request of the 2011-2012 State Administration and Veterans' Affairs Interim Committee (SAVA) in the context of three successive controversial gubernatorial appointments of Commissioners of Political Practices: one failed to be confirmed by the Senate; the subsequent appointee resigned amid concerns the appointee used public time to conduct private business; and the third appointee chose not to seek Senate confirmation. Concerns about interim appointments heightened legislative interest in a broader examination of the Office of Commissioner of Political Practices (COPP).

Policy goals

The policy goals articulated in HJR 1 were to:

- reduce the perception of partisanship in the selection process;
- improve the effectiveness and efficiency of the office; and
- ensure more immediate consequences and appropriate penalties for campaign, ethics, and lobbying law violations.

Study tasks

The resolution called for a study of:

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

The resolutions further asked that the examination include a review of practices in other states, analysis of options, consideration of stakeholder concerns, and the development of recommendations for the 2015 Legislature.

Calendar of activities

The following table summarizes the meeting dates and agenda items related to SAVA's HJR 1 study.²

Meeting Date	Major Agenda Topics
July 11, 2013	General overview of the Office of Commissioner of Political Practices duties, staff, and budget (COPP)
Aug 20, 2013	<ul style="list-style-type: none"> • Review of current statutes and previous research • Legal memorandum on appointment power • Committee review, modification, adoption of study plan
Oct 21, 2013	<ul style="list-style-type: none"> • Detailed presentation from Commissioner and staff on COPP's structure, duties, staff, and workload • Staff report on political practices, lobbying, and ethics regulation in other states • Review and approval of a 50-state survey
Dec 10, 2013	<ul style="list-style-type: none"> • Detailed staff report on current process for enforcing campaign, lobbying, and ethics laws. • Round table discussion on whether COPP has too much or not enough power to enforce campaign, lobbying, and ethics laws and whether or how the office could be made more efficient or effective.
Feb 6, 2014	<ul style="list-style-type: none"> • 50-state survey results • Review and discussion of comments from 12/10/13 round table • Legal memorandum on SAVA's power with respect to an interim appointment of a Commissioner
April 9, 2014	<ul style="list-style-type: none"> • Fines and fees for campaign violations in other selected states • Options examined for revising the: <ul style="list-style-type: none"> - nomination and selection process for the Commissioner; - office structure, including staff and budget; - scope of the duties of the COPP; - operational processes for handling complaints; and - enforcement powers and penalties • Preliminary recommendation: Bill request LCsa01 to revise the nomination and appointment process for the Commissioner.
June 5, 2014	<ul style="list-style-type: none"> • LCsa01 discussed and revised.
Aug 15, 2014	<ul style="list-style-type: none"> • LCsa01 formally approved as final recommendation <ul style="list-style-type: none"> - bill becomes LC 303 to require the governor to appoint the Commissioner of Political Practices from the nomination committee's list of nominees.

² The minutes, audio/video files, and reports for each meeting are available at www.leg.mt.gov and following the links for interim committees. For assistance contact the Montana Legislative Services Division at (406) 444-3064.

Office structure, staff, and budget

Independent general fund agency

The COPP is administratively attached to the Office of Secretary of State³ but is an independent agency. Section 13-37-112, MCA, authorizes the Commissioner to hire and fire office personnel and gives the Commissioner autonomy over managing the agency's budget.

Section 13-37-113, MCA, authorizes the Commissioner to hire or retain attorneys and provides that the attorneys have the power to act as special prosecutors in any civil or criminal case filed in District Court for a violation of campaign practices laws.

The COPP is entirely funded by the state general fund. Its budget is set by the Legislature through an appropriation, which is usually contained in House Bill 2, the biennial General Appropriations Act. The following summarizes the staff positions in the agency and its total appropriation for the biennium ending June 30, 2015.

Positions within the office

- Commissioner
- Legal counsel
- Investigator
- Program supervisor
- Program assistant
- Data manager

FTE	2015 Biennial Funding	% General Fund
6	\$1,144,533	100%

Note: A 7th FTE is a one-time-only position for in-house legal counsel, so will not be in the biennial base budget for the 2017 biennium. (Source: Legislative Fiscal Division)

Contracted services

The Commissioner may contract for additional services as needed. The Commissioner reported that about \$150,000 was spent during the last fiscal year for contracted services. Contractors included:

- StoneRiver, Inc. for information technology services;
- Agency Legal Services(ALS), Montana Department of Justice, for legal services; and
- private attorneys, law firms, and other legal services providers. These contracts are authorized only when the ALS workload prohibits it from providing the requested legal support.⁴

³ Section 2-15-411, MCA.

⁴ For more information go to www.leg.mt.gov and navigate to interim committees, State Administration and Veterans' Affairs Interim Committee, 2013-2014, October 21, 2013, meeting page. For assistance call Montana Legislative Services at (406) 444-3064.

Commissioner's nomination and appointment

Current law

The Commissioner is appointed by the Governor and must be confirmed by the Senate. Section 13-37-102, Montana Code Annotated, provides that a legislative selection committee nominates between two and five people for the position. There is no provision to break a tie vote by the four-member nominating committee and no requirement that the Governor appoint from the list of nominees. The nominating committee consists of:

- the speaker of the house;
- the president of the senate;
- the minority leader in the House; and
- the minority leader in the Senate.

If the Senate fails to confirm the Governor's appointee, a vacancy occurs at the end of a session, i.e., during the interim. Under section 13-37-104, MCA, "a nomination made while the senate is not in session is effective as an appointment until the end of the next session". Montana's Constitution allows an interim appointee to discharge all official duties of the office even without Senate confirmation.⁵

Initial process - 1975

The position of Commissioner of Political Practices was created by the Legislature in 1975 to provide state-level enforcement authority as part of a package of bills consolidating and updating the Corrupt Practices Act passed by citizen initiative in 1912. Senator Mike Greely, who later became Montana's Attorney General, carried the bill that established the position, Senate Bill No. 76.⁶

Under SB 76, the Commissioner was appointed by a four-member committee, which are the same four members identified under current law as the nominating committee: the speaker of the house, the president of the senate, the minority leader in the House, and the minority leader in the Senate. The bill provided that the Montana Supreme Court was to appoint a fifth member to the selection committee if there was a tie vote on an appointee. The Governor had no role in the appointment.⁷

⁵ Montana Constitution, Art. VI, sec. 8(3).

⁶ Laws of Montana 1975, Chapter 480.

⁷ Ibid.

Separation of powers concerns - 1979

During the 1979 regular legislative session, Rep. Ralph Eudaily (R-Missoula) introduced House Bill No. 456, revising campaign laws. According to the minutes of the committee hearings, HB 456 was one of several bills produced by the Interim Subcommittee on Legal Services and Election Laws. The bill provided that the legislative committee would nominate individuals, but the Governor would appoint the Commissioner, subject to Senate confirmation.

Evidently, the bill was drafted in the wake of a state District Court decision dismissing an alleged campaign law violation in Missoula County. Arguments filed during that case led to later concerns about the method of the Commissioner's appointment, specifically the concern that the Legislature and the Supreme Court were exercising appointment powers that properly belonged to the Executive Branch under the separation of powers doctrine.⁸

Recent legal memorandums - 2013-2014

As part of the HJR 1 study, legislative legal staff was asked to provide SAVA with two legal memorandums: one discussing the Governor's appointment power and the separation of powers doctrine,⁹ and the other discussing the power of the Legislature to act when the Governor appoints a Commissioner in the interim between sessions.¹⁰

The memorandum concerning appointment power concluded that:

"if the Legislature wishes to alter the present appointment scheme for the Commissioner of Political Practices, it should consider a variety of factors. As noted above, courts have considered the degree of subsequent legislative control over appointees, the nature and scope of executive power at issue, the jurisdiction of the ethics board or commission, the objective sought by the legislature, the practical result of intermingled branch powers, and the makeup of board or commission members."¹¹

⁸ *State v. Matthews* (1979) 183 Mont. 405; 600 P.2d 188.

⁹ K. Virginia Aldrich, Legal Memorandum to Sheri Scurr on behalf of the State Administration and Veterans' Affairs Interim Committee, Appointment Power, June 10, 2013, Legal Services Office, Montana Legislative Services Division.

¹⁰ K. Virginia Aldrich, Legal Memorandum to the State Administration and Veterans' Affairs Interim Committee, Confirmation of Commissioner of Political Practices, January 16, 2014, Legal Services Office, Montana Legislative Services Division.

¹¹ K. Virginia Aldrich, Legal Memorandum, June 10, 2013, p. 7.

The memorandum also concluded that "under Montana precedent, judicial appointment of an officer to the head of an Executive Branch agency is likely prohibited."¹²

The memorandum concerning confirmation of interim appointments was provided after several SAVA members asked if the Legislature could somehow consider the confirmation of an interim appointee during the interim rather than having to wait until a legislative session. The memorandum concluded that:

"the Senate State Administration Committee may not meet during the interim to hold confirmation hearings on a nominee for the office of Commissioner of Political Practices in order to make a recommendation regarding the confirmation of the nominee and then refer the confirmation to a vote of the Senate by mail ballot. A meeting of the Senate State Administration Committee during an interim for purposes of confirmation hearings on a Commissioner of Political Practices nominee would require changes in state law and Senate rules. In addition, mail balloting for purposes of confirmation may potentially pose constitutional questions. However, the Legislature likely may consider a nominee to the office of Commissioner of Political Practices during a special session."¹³

Commissioner's salary and term

The Commissioner's position is classified under the statewide classification and pay plan, which is governed by statute.¹⁴ This means the salary is set by the Department of Administration through a process that groups state positions into defined occupational wage ranges based on the similarity of work performed, responsibilities assumed, difficulty of work, required knowledge, and required skills.¹⁵ The actual amount of salary paid for each occupational pay range is set based on (1) a survey of salaries paid for similar government jobs in North Dakota, South Dakota, Idaho, and Wyoming, and (2) an analysis of the labor market.¹⁶ The Governor sets the exact salary within the pay band established by the Department of Administration for the position.¹⁷ The salary for the current Commissioner, Jonathan Motl, was initially set at \$62,500. By law, the

¹² Ibid.

¹³ K. Virginia Aldrich, Legal Memorandum, January 16, 2014, p. 1.

¹⁴ Section 13-37-106, MCA.

¹⁵ Section 2-18-202, MCA.

¹⁶ Section 2-18-301, MCA.

¹⁷ Section 13-37-106(5), MCA.

Commissioner must receive any pay raises approved by the Legislature for state classified positions,¹⁸ and so Commissioner Motl received a pay raise in July 2013, along with other state classified employees.¹⁹

The Commissioner's term of office is 6 years, and the Commissioner may not be reappointed.²⁰

Commissioner's qualifications and restrictions

To be appointed as Commissioner, a person must be a U.S. citizen, a resident of Montana, and registered to vote in Montana.²¹ During the Commissioner's term of office, the Commissioner may not knowingly:

- hold another position of public trust or engage in any other occupation or business if the position of public trust or the other occupation or business interferes with or is inconsistent with the Commissioner executing the duties of the Commissioner's office;
- engage in any other occupation or business during the business hours of the Commissioner's office unless the commissioner is in a leave status from the office;
- participate in any political activity or in a political campaign;
- make a contribution to a candidate or political committee or for or against a ballot issue or engage in any activity that is primarily intended to support or oppose a candidate, political committee, or ballot issue;
- attend an event that is held for the purpose of raising funds for or against a candidate, political committee, or ballot issue; or
- participate in a matter pertaining to the Commissioner's office that: (a) is a conflict of interest or results in the appearance of a conflict of interest between public duty and private interest pursuant to Title 2, chapter 2; or (b) involves a relative of the Commissioner.²²

¹⁸ Section 13-37-106(6), MCA.

¹⁹ Pay increases were granted by the 2013 Legislature under HB 13, Laws of Montana, Ch. 385.

²⁰ Section 13-37-103, MCA.

²¹ Section 13-37-107, MCA.

²² Section 13-37-108, MCA.

Commissioner's removal from office

The Commissioner may be removed from office in two ways:

- by the Governor for incompetence, malfeasance, or neglect of duty,²³ or
- by the House of Representatives through an impeachment process for felonies, misdemeanors, or malfeasance.²⁴

Commissioner's duties

The COPP has three areas of responsibility under the law:

- campaigns;
- lobbying; and
- ethics.

Campaigns: The Commissioner's duties with respect to campaign practice laws encompass:

- providing report forms and rules or procedure;
- receiving and auditing campaign finance reports;
- certifying to election administrators that a candidate has complied with campaign reporting requirements;
- ensuring proper disclaimers are included on election materials; and
- receiving, investigating, and issuing sufficiency findings when a complaint has been made that a campaign practice law has been violated.²⁵

Lobbying: With respect to lobbying laws, the Commissioner's duties encompass:

- licensing lobbyists and inspecting applications and reports from lobbyists;
- making lobbyist information publicly available;
- receiving reports from principals on payments to lobbyists;
- investigating irregularities in lobbyist reports; and
- holding informal contested case hearings and levying civil penalties for violations.²⁶

Ethics: The Commissioner's duties with respect to ethics laws encompass:

- receiving disclosures from public officers with salaries from two separate public employment positions;
- receiving business disclosure statements for state officers and candidates;
- receiving disclosure of private interests related to public duty;
- receiving code of ethics complaints for state officers, legislators, state employees, and county attorneys; and

²³ Section 13-37-102(2), MCA.

²⁴ Section 13-37-105, MCA.

²⁵ Title 13, chapters 35 and 37, MCA.

²⁶ Title 5, chapter 7, MCA.

- investigating and holding informal contested case hearings concerning ethics complaints and levying civil penalties for ethics violations.²⁷

Campaign complaints - nonbinding authority

The Commissioner's key power with respect to campaign finance laws is informal and nonbinding. The Commissioner is empowered to investigate complaints and issue a sufficiency finding. But the finding is simply an opinion about whether there is any evidence of a violation and, if there is, whether the evidence is sufficient to warrant a civil or criminal court action. The sufficiency finding is nonbinding, meaning that the party alleged to have violated a campaign finance law is not bound by the Commissioner's opinion. It is the threat of court action that provides an incentive for the person alleged to have violated a campaign finance law to settle the matter and pay an administrative penalty prior to any court action being filed.

The process outlined in current law is as follows:

- A complaint must be filed with the Commissioner in writing and must allege a specific violation of a specific law.²⁸
- The Commissioner **shall** investigate any complaint alleging a failure to file any campaign finance report or statement, falsification of these reports, or contributions or expenditures given or received in violation of the law.²⁹
- In conducting its investigation, the Commissioner's office is empowered to:
 - subpoena and inspect any records, bank statements, or other documents that must be kept pursuant to the campaign finance laws;
 - administer oaths and affirmations; and
 - subpoena witnesses.³⁰
- Based on the findings of an investigation, the Commissioner's office **shall**:
 - dismiss the complaint; or
 - notify the county attorney that there appears to be sufficient evidence to justify a civil or criminal prosecution.³¹
- A county attorney notified of a sufficiency finding has 30 days to decide whether to prosecute.³²

²⁷ Title 2, chapter 2, MCA. The Commissioner has no authority concerning ethics laws with respect to local elected officials (except county attorneys) or local public employees.

²⁸ Section 13-37-111(2)(a), MCA.

²⁹ Ibid.

³⁰ Section 13-37-111(2)(b) and (2)(c), MCA.

³¹ Section 13-37-124(1), MCA.

³² Ibid.

- If the county attorney waives the right to prosecute, the Commissioner's office **may** file the appropriate court action.³³
- At any time after the Commissioner has issued a sufficiency finding in a civil case, the party alleged to have violated the campaign finance law may settle the matter through informal negotiations with the Commissioner's office. Settlement usually involves payment of administrative fines, which are provided for in statute.³⁴
- The penalties for a violation of a campaign finance law are:
 - for a violation of a campaign reporting requirement or for an unlawful contribution or expenditure, up to \$500 or three times the amount of the reporting violation or of the unlawful contribution or expenditure, whichever amount is greater;³⁵
 - for failure to file a report, in addition to the fine, the candidate's name **must** be taken off the ballot,³⁶ or, if the ballot has already been printed, a certificate of nomination or election **must** be withheld;³⁷
 - a candidate convicted by a court in a **criminal** case is ineligible to be a candidate for any public office until final discharge from state supervision (a misdemeanor conviction allows a term of incarceration in a county jail of up to 6 months and/or a fine not to exceed \$500³⁸);
 - a campaign treasurer convicted by a court in a **criminal** case is ineligible to be a candidate for any public office or a campaign treasurer for any campaign until final discharge from state supervision (a misdemeanor conviction allows a term of incarceration in a county jail of up to 6 months and/or a fine not to exceed \$500³⁹); and

³³ Ibid.

³⁴ This is an implied power. There is no explicit discussion of informal settlement in current statutes. However, because the Commissioner may decide not to file a court action if a county attorney waives prosecution, the Commissioner has the power to settle the case without filing the action.

³⁵ Section 13-37-128, MCA.

³⁶ Section 13-37-126, MCA.

³⁷ Section 13-37-127, MCA.

³⁸ Sections 13-35-103, 13-35-106 (1) and 46-18-212, MCA.

³⁹ Sections 13-35-103, 13-35-106 (2) and 46-18-212, MCA.

- a person nominated or elected to a public office who is convicted by the court in a **civil or criminal** case "**must** be removed from nomination or office, as the case may be, even though the individual was regularly nominated or elected". (emphasis added)⁴⁰
- A court action may not be filed more than 4 years after the occurrence of the facts giving rise to the court action.⁴¹

Table 1 on the next page shows the number and disposition of complaints between 2009 and November 2014.

⁴⁰ Section 13-35-106(3), MCA.

⁴¹ Section 13-37-130, MCA.

Table 1 - Campaign Practice Complaints

Calendar year complaint was lodged	Lodged	Rejected	Accepted (Filed)	Commissioner Decision Pending	Insufficiency Finding - Dismissed	Sufficiency Findings			
						Total	In Process	Settled	Court Action Filed
2009	6	1	5	0	5	0	0	0	0
2010	68 ¹	15	53 ²	0	19	31	0	6	25
2011	16	3	13 ³	0	9	2	0	2	0
2012	53	19	34	10	10	14	2	10	2
2013	28	8	20	5	6	9	1	8	0
2014 as of Nov. 6	88	12	76	14	45 ^{4,5}	17	10	7	0
TOTAL	259	58	201	29	94	73	13	33	27

Source: Office of Commissioner of Political Practices

Notes:

- 1 - Includes complaints opened, decided, settled or litigated in 2013 & 2014
- 2 - Three of the complaints were later withdrawn.
- 3 - Two of the complaints were later withdrawn.
- 4 - Two of the complaints were merged with prior complaints.
- 5 - Includes one decision that dismissed 18 complaints.

Lobbying complaints - nonbinding authority

The Commissioner's power with respect to lobbying law violations is similar to the powers outlined above for campaign practice violations. The Commissioner may dismiss the matter or issue a nonbinding sufficiency finding. If the county attorney waives the right to prosecute, the Commissioner may file a court action. The matter may be settled out of court any time prior to final adjudication by a court. The laws governing lobbying practices and the Commissioner's enforcement powers are contained in Title 5, chapter 7, MCA.

The penalties for lobbying law violations are a fine of not less than \$250 or more than \$7,500, and suspension or revocation of the person's lobbyist license.¹

Table 2 - Lobbying Complaints

Calendar Years	Complaints	Accepted	Insufficiency Finding - Dismissed
2009	1	1	1
2010	0	0	0
2011	0	0	0
2012	1	1	1
2013	0	0	0
2014 (as of Nov. 6)	0	0	0
TOTAL	2	2	2

Source: Office of Commissioner of Political Practices

Ethics complaints - binding authority

Unlike the process for handling complaints concerning campaign practice or lobbying laws, the process for handling allegations of ethics violations involves a binding administrative process.

The Commissioner's enforcement authority extends only to state officers, legislators (for nonlegislative acts), state employees, and county attorneys. The Commissioner has no jurisdiction over complaints concerning local elected officials (other than the county attorney) or local government employees.²

After the Commissioner receives an ethics complaint, the Commissioner may:

- dismiss the matter if there is insufficient evidence or the complaint does not allege a specific violation over which the Commissioner has jurisdiction;

¹ Section 5-7-305(1), MCA.

² Sections 2-2-136, 2-2-14 4 MCA.

- issue a summary decision that a violation has occurred if the facts of the case are similar to a previously decided case; or
- hold a contested case hearing, which is much like a court hearing, in which the Commissioner acts as the administrative hearing judge, after which the Commissioner issues a binding decision.³

The administrative hearing process is governed by Title 2, chapter 4, part 6, and involves procedures allowing each party to be represented by counsel, submit written or oral evidence, call witnesses, and cross-examine witnesses. Common law and statutory rules of evidence apply. Records of the proceedings must be kept.⁴

The Commissioner's decision, whether issued as a summary decision or issued after an administrative hearing, is binding on the parties. However, the decision is subject to judicial review, which means that either party may appeal the decision to a District Court. The court does not retry the case. There is no opportunity for a jury trial, and the court's review is confined to the record of the administrative hearing.⁵

The penalty for an ethics violation is not less than \$50 or more than \$1,000.⁶ However, if the violation relates to a state officer using or permitting the use of "public time, facilities, equipment, supplies, personnel, or funds to produce, print, or broadcast any advertisement or public service announcement in a newspaper, on radio, or on television that contains the state officer's name, picture, or voice except in the case of a state or national emergency if the announcement is reasonably necessary to the state officer's official functions or in the case of an announcement directly related to a program or activity under the jurisdiction of the office or position to which the state officer was elected or appointed", then the penalty is not less than \$500 or more than \$10,000.⁷

Table 3 - Ethics Complaints

Calendar Years	Filed	Accepted	Final Order to Dismiss	Violation Ruling	Violation Ruling Appealed	Decision Pending
2009 through 2013*	22	7	7	0	0	0
2014	8	1	0	0	0	1
TOTAL	30	8	7	0	0	1

Source: Office of Commissioner of Political Practices

Note: Data not readily available for year-by-year breakout between 2009 and 2013.

³ Ibid.

⁴ Sections 2-4-612 and 2-4-614, MCA.

⁵ Section 2-4-704, MCA.

⁶ Section 2-2-136 (2)(a), MCA.

⁷ Sections 2-2-121(4)(b) and 2-2-136(2)(b), MCA

Other states

In a paper prepared for the 2011-2012 SAVA, legislative research staff reported:

"Montana is the only state with a single commissioner responsible for campaign finance, lobbyist disclosure, and ethics oversight. Many states give responsibility for these duties to an ethics commission and the states with ethics commissions that perform the same functions as the Montana Commissioner range in size from 5 to 11 members and vary in their authority and jurisdiction. No state houses all duties performed by the Montana Commissioner in an elected officer, such as the Secretary of State or Attorney General. The states that use the Secretary of State or Attorney General to perform some of these duties either do not have an ethics commission or split campaign finance, lobbyist, and ethics responsibilities among two or more entities."⁸

After some discussion, SAVA requested that staff conduct a 50-state survey containing three sections: (1) campaign finance; (2) lobbying; and (3) ethics. The Committee also asked that the survey cover:

- how were complaints handle a (e.g., did the state use an informal or formal process, was the top official's or commission's decision binding or nonbinding, etc.);
- how were officials or commission members appointed;
- what qualifications were required; and
- what was the enforcement office's caseload and staffing.

The results of the survey, along with statutes from selected states, are provided at **Appendix C**.

Round table testimony

The State Administration and Veterans' Affairs Interim Committee hosted a round table discussion with a panel of stakeholders and experts in the areas of campaigns, lobbying, and ethics. A summary of the questions posed to panel members and the comments made during the round table discussion is provided at **Appendix D**. Please note, however, that SAVA requested that the summary of comments not identify who made the comments.⁹

⁸ Megan Moore, "Briefing on Ethics Offices for the State Administration and Veterans' Affairs Interim Committee", April 6, 2012, Montana Legislative Services Division, p. 13.

⁹ The audio/video record of the discussion is available online in the archive for the December 10, 2013, meeting. This archive is provided at SAVA's home page accessible at www.leg.mt.gov by following the links to interim committees and the 2013-14 State Administration and Veterans' Affairs Interim Committee.

The panelists were:

- Steve Brown, former Democratic State Senator from Helena, 1979-1983;
- Johnathan Motl, current Commissioner of Political Practices;
- Linda Vaughey, former Commissioner of Political Practices, 1999-2004;
- Chris Gallus, attorney, campaign consultant;
- Chuck Denowh, Montana Group, former Executive Director of the Montana Republican Party;
- Lorna Kuney, campaign manager/communications consultant; and
- Tim Warner, campaign manager/communications consultant.

Committee action

Key work session - focus on nomination and appointment

SAVA's key work session on what recommendations to consider under the HJR 1 study occurred on April 9, 2014. An options paper provided to SAVA covered the following areas:

- nomination and appointment;
- staffing and resources;
- scope of duties;
- process for handling complaints;
- enforcement powers and penalties.

During the work session, SAVA members discussed whether to have a citizen advisory commission under which the Commissioner would operate. Support for the idea focused on the fact that recent Commissioners had not been confirmed by the Senate because of concerns about partisanship in the handling of complaints. Other members thought that having an advisory commission would slow the process for handling complaints, would cost more, and would probably also be subject to accusations of partisanship in the appointment of the advisory commission members.

This led to discussion about the nominating and appointment process for the Commissioner and how to make the nomination process as nonpartisan as possible. Support was offered for requiring the Governor to appoint from the list of nominees submitted by legislative majority and minority leadership. Members then discussed the Senate confirmation process. Concern was voiced that even if the Governor appointed the Commissioner from the list of nominees, the appointee may still be considered partisan and not be confirmed by the Senate.

There was no discussion with respect to the other issue areas or options for consideration during the April 9, 2014, work session.¹⁰

Preliminary recommendation

Sen. Jent moved for a preliminary committee bill draft providing that the four-member legislative nomination committee would select a fifth member as the chairperson. Five members, Sen. Jent argued, would avoid a partisan stalemate

¹⁰ The audio/video record of the discussion is available online in the archive for the April 9, 2014, meeting. This archive is provided at SAVA's home page accessible at www.leg.mt.gov by following the links to interim committees and the 2013-14 State Administration and Veterans' Affairs Interim Committee.

on the list of nominees. If the four members could not agree on a fifth member, the Supreme Court would appoint the fifth member. Sen. Jent explained his proposal was modeled after the process outlined in Montana's Constitution for how members of the Districting and Apportionment Commission are selected.¹¹ He moved that the preliminary bill draft also require that the Governor appoint the Commissioner from the list of nominees. Sen. Jent's motion was approved by a unanimous voice vote.¹²

During discussion of the preliminary recommendation (working bill draft LCsa01), at SAVA's subsequent meeting, Sen. Jent said he believed the bill would reduce the perception of partisan appointments while still providing that the Governor makes the appointments, which is a constitutional role for the Governor under the separation of powers doctrine.¹³ However, some SAVA members expressed concerns about having a fifth member on the nomination committee, citing concerns that the committee may never agree on a fifth member and that the Supreme Court would likely not want to become involved in the politics of selecting a fifth member. After more discussion, SAVA members agreed that the bill should keep the four-member nomination committee as it is currently provided for in statute. The rationale cited was that if the four members could not achieve a majority vote on the list of nominees, then the bill could provide that the governor would be authorized to appoint anyone of his or her choosing and that this would provide an incentive to the selection committee to reach agreement on the nominees.¹⁴

Some SAVA members expressed concern about the current law providing that an interim appointment is valid through the end of the next legislative session. A proposal was offered for changing that provision so that the Commissioner's term would expire at the beginning of the session. However, other SAVA members said this would not really fix the problem because if the Senate failed to confirm the appointment during the session, there would still be an interim vacancy, which could lead to the post being vacant for a significant period of time during which the important work of the office would not be done.¹⁵

Public comment

Chris Gallus, Helena attorney, offered the only public comment on SAVA's preliminary recommendation. He expressed support for requiring the Governor to appoint from the list of nominees and for the term expiring at the beginning of the legislative session rather than at the end of the session, or otherwise allowing a selection process to begin earlier than after the session was over.¹⁶

¹¹ Montana Constitution, Art. V, sec. 14.

¹² State Administration and Veterans' Affairs Interim Committee, Minutes, April 9, 2014, Montana Legislative Services Division, audio/video recording time 2:17:34 through 2:43:01, available at www.leg.mt.gov.

¹³ State Administration and Veterans' Affairs Interim Committee, Minutes, June 5, 2014, Montana Legislative Services Division, audio/video recording time 1:34:27 through 2:02:56, available at www.leg.mt.gov.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*, audio/video time 1:56:53.

Final recommendation - LC 303

Between the June and August 2014 SAVA meetings, Sen. Jent asked staff to redraft LCsa01 to revert to the current law for a four-member nomination committee, but to retain the bill's new provision requiring the Governor to appoint the Commissioner from the list of nominees. Sen. Jent further instructed that the bill provide that if the four-member committee could not reach a majority vote in favor of the list of nominees, then the Governor would be allowed to appoint anyone. At SAVA's August 2014 meeting, discussion in favor of the redrafted bill echoed previous discussion. However, Sen. Jent suggested that a back up bill could be drafted as a potential option that would provide for a five-member nomination committee as reflected in the earlier draft of LCsa01.

No public comment was offered on the final recommendation. The final draft of LCsa01 (LC0303) was adopted unanimously. Sen. Dee Brown agreed to carry the bill on behalf of SAVA. A back up bill draft was not proposed.¹⁷

¹⁷ State Administration and Veterans' Affairs Interim Committee, Minutes, August 15, 2014, Montana Legislative Services Division, audio/video recording time 0:32:30 through 0:38:34, available at www.leg.mt.gov.

CHAPTER 2

Senate Joint Resolution No 14: Study of Election Laws¹⁸

Issue background

Senate Joint Resolution No. 14 was requested by the Senate Local Government Committee after the committee tabled Senate Bill No. 140, which was sponsored by Sen. Art Wittich (R-Bozeman). The bill proposed to combine school and primary elections. The committee tabled SB 140 on a motion by Sen. Alan Olson (R-Roundup), who stated that the concept of combining school and primary elections was a perennial issue that would continue to be brought before the Legislature.

Sen. Olson also noted that the logistics of implementing such a bill, such as coordinating all the deadlines set in statute, were too complex to be tackled during the session and that it would be best to have an interim study so that all the technical concerns raised about implementing SB 140 could be adequately addressed. The committee tabled SB 140 and voted to request a committee bill that became SJR 14. The resolution states that the appropriate interim committee should "study local government and school district election procedures and identify opportunities to combine elections".

Study tasks

The study tasks outlined in SAVA's adopted study plan were to:

- examine how existing dates and deadlines specified in statute would need to be adjusted in order to conduct combined school and primary elections and how other elections may or may not be affected;
- learn about the various administrative boundaries for jurisdictions holding elections, including state, legislative, county, school district, city, and other special district elections;
- study the roles and responsibilities of the Secretary of State, OPI, counties, county election administrators, school officials, and school election administrators; examine costs associated with those roles and responsibilities, who pays for them and how;
- identify how to administer the technical elements of combined elections, including the effects on overseas and military voters, different poll locations, opening and closing times, mail ballot elections, etc.; and

¹⁸ SJR 14 actually requested a study to determine how to combine primary and school elections. However, after examining current law and hearing stakeholder concerns about various inconsistencies in current law, SAVA decided to set aside the question of how to combine primary and school elections and to instead work on revising election laws to address the current inconsistencies.

- examine voter turnout, issues related to potential voter confusion, and ways to ensure consistency for voters and provide adequate voter education.

Policy goals

The key policy goals raised in discussions on bills to combine primary and school elections were:

- how to improve voter turnout at school elections;
- how to ensure the integrity of school elections; and
- how to manage the complexity of administering multiple elections.

Subcommittee appointed

Chairwoman Brown appointed a three-member subcommittee to tackle the SJR 14 study. The subcommittee met three times and examined state, local, special purpose district, and school district elections.

Subcommittee members were:

- Rep. Bryce Bennett, Subcommittee Chairman;
- Rep. Joanne Blyton; and
- Rep. Kathy Swanson.

Calendar of activities

The table on the following page summarizes the meeting dates and agenda items related to the SJR 14 study.¹⁹

¹⁹ The minutes, audio/video files, and reports for each meeting are available at www.leg.mt.gov and following the links for interim committees. For assistance contact the Montana Legislative Services Division at (406) 444-3064.

Meeting Date	Major Agenda Topics
Aug. 20, 2013	<ul style="list-style-type: none"> History of previous bills and testimony on combining primary and school elections Review of previous research paper Adoption of study plan, appointment of subcommittee
Sept. 18, 2013	<p><u>Subcommittee</u></p> <ul style="list-style-type: none"> Comparison charts of election dates and deadlines Round table discussion with stakeholders Decision to set aside consideration of combining primary and school election in favor of statutory cleanup and general revision Instructions to staff to research current law, identify conflicts, and identify what would need to be changed to simplify, deconflict, and streamline current laws
Jan. 17, 2014	<p><u>Subcommittee</u></p> <ul style="list-style-type: none"> Title 13 discussion bill draft - decision points Title 20 school election discussion bill draft - decision points Title 7 provisions discussion bill draft - decision points Other special districts discussion bill draft - decision points
Feb 6, 2014	<ul style="list-style-type: none"> Update to full SAVA on Subcommittee's activities and preliminary recommendations
March 20, 2014	<p><u>Subcommittee</u></p> <ul style="list-style-type: none"> Conference call meeting to refine preliminary bill draft, make identified policy decisions
April 9, 2014	<ul style="list-style-type: none"> Subcommittee recommendations presented to full SAVA, general revision bill, LCsa02
June 5, 2014	<ul style="list-style-type: none"> Section-by-section summary of preliminary bill draft Additional decision points for full SAVA Consensus on Committee bill request, LCsa02 becomes LC 143
Nov 17, 2014	<ul style="list-style-type: none"> Final revisions and adoption of LC 143 as Committee bill

Differences between primary and school election deadlines

To begin the Subcommittee's study, staff prepared color-coded spreadsheets of deadlines for federal, state, county, municipal, and school elections for odd years and even years, since some primary election deadlines depend on whether it is a federal election year.²⁰

The current statutory differences initially identified between primary and school elections encompassed the following types of deadlines:

- voter registration (late registration does not apply to school elections conducted by school clerks);
- candidate filing deadlines;

²⁰ These spreadsheets are accessible from www.leg.mt.gov. Navigate to the 2013-14 State Administration and Veterans' Affairs website and the September 18, 2013, SJR 14 Subcommittee meeting page. Click on the links for the Composite Spreadsheets.

- the deadline for write-in candidates;
- candidate withdrawal deadlines;
- ballot certification deadlines;
- the deadline for mailing ballots to military and overseas voters (which is optional for school districts);
- public notice of the election;
- when absentee ballots must be available;
- when absentee ballots for military and overseas electors must be counted (which is optional for school district elections);
- the deadline for canvassing the election; and
- when results of an election must be publicly noticed.

Differences in local and special purpose district election provisions

The SJR 14 Subcommittee's discussion with stakeholders on September 18, 2013, also revealed numerous concerns about inconsistencies in current statute about elections concerning local governments, local boards and commissions, and special purpose districts. Under current law, these elections may also be held on primary election day, thus creating even more challenges for election administrators.

Some of the inconsistencies initially identified encompassed the following:

- inconsistent use of internal references to statutes in Title 13 about how an election is to be conducted;
- inconsistent provisions about terms of office, vacancies, and whether a vacancy is filled by appointment or election;
- different deadlines for how soon before an election the election may be called;
- different provisions related to how many signatures must be gathered from electors to qualify a person to file as a candidate for an elected board;
- inconsistent terminology about who is a qualified elector;
- varying public notice requirements;
- outdated language concerning ballot forms;
- inconsistent language concerning election administrator verification of petitions for an election;
- redundant and overlapping provisions in statutes; and
- inconsistent language about whether the election "may" or "shall" be held in conjunction with a primary or general election, or "may" or "shall" be called as a special election.

Combining primary and school elections set aside

After considering the complexity of election administration and the various inconsistencies in current law, the SJR 14 Subcommittee voted to set aside consideration of combining primary and school elections and to develop a general revision bill to clean up inconsistencies to the extent feasible.²¹

Key policy changes in LC 143

Although many of the changes proposed by the SJR 14 Subcommittee and ultimately endorsed by the full SAVA are technical in nature, several policy changes are reflected in the committee's election law revision bill, LC 143.

The main policy changes proposed in LC 143 are to:

1. Require special purpose district elections (except for conservation district elections) to be conducted on the same day as the regular school district trustee election unless the election is related to funding. A funding election may be called on a special day.
2. Remove exemption from late voter registration for school district elections administered by the school districts; and
3. Standardize candidate filing deadlines for all elections, except school trustee elections.

A section-by-section summary of LC 143 is provided at **Appendix B** and highlights the sections in the bill that contain changes from current law that are more than technical cleanup.

²¹ State Administration and Veterans' Affairs Interim Committee, Minutes, Montana Legislative Services Division, September 18, 2014, 02:52:45.

Primary and general election deadlines

Table 1 shows deadline changes proposed in LC 143 for primary and general elections.

Table 1: Primary and General Election Deadlines *Changes*

Activity MCA section	Current Law Deadline	Change Proposed in LC 143
First day to file as a candidate in primary: 13-10-201	145 days before - even years 135 days before- odd years	145 days before
Last day to file as a candidate in primary: 13-10-201	85 days before - even years 75 days before - odd years	85 days before
Last day for candidate to withdraw from having name printed on the ballot: 13-10-325	75 days before primary 85 days before general	85 days before
When COPP must notify Sec. of State and county election administrators if candidate has failed to file a necessary report and the candidate's name may not appear on ballot 13-37-126	Notification to Sec. of State - 77 days before election [statute reads "(i) within 8 calendar days after the earliest certification deadline provided in 13-10-208(1) for primary elections held pursuant to 13-1-107(1) ;" Notification to county election administrators - between 67 and 62 days before in odd years and between 75 and 70 days in even years [statute reads: " (ii) by the earliest date specified under 13-10-208(2) for the county election administrator to certify the ballot for primary elections held pursuant to 13-1-107(2) or (3);	77 days before primary 83 days before general election Notification to Sec. of State and county election administrators would be on same day Retains longer time line for general election to allow more time for filling vacancy
Ballot certification 13-10-208	Sec. of State certifies names to county election administrator between 85 days and 75 days before County election administrators certify names between 67 and 62 days before in odd years or 75 and 70 days in even years	75 days before
Absentee ballots must be available 13-13-205	45 days before for military and overseas electors, federal election For other ballots: 30 days before in even years 20 days before in odd years	No change for military & overseas federal ballots 25 days before for other ballots

School election deadlines

Table 2 shows deadline changes proposed in LC 143 for school trustee elections.

Table 2: School Election Deadline Changes

Activity	Current Law Deadline	Change Proposed in LC 143
First day to file as a candidate in primary: 20-3-305	None specified	145 days before
Last day trustees may call an election: 20-20-201	40 days before	85 days before
Last day to register to vote 13-2-304 20-20-311 20-20-312	30 days before if the election is conducted by a school clerk Close of polls on election day if the election is conducted by a county election administrator	Close of polls on election day
Last day to become a write-in candidate: 13-10-211(3)	26 days before by 5 p.m. - provision moved to 20-3-305	31 days before by 5 p.m.
Ballot certification 20-20-401	25 days before	30 days before
Mailing of ballots if election is conducted by mail 13-19-207	No later than 15 days before	No later than 20 days before

Public notice changes

Changes are also being proposed concerning public notice of elections. Current law in section 13-1-108, MCA, specifies notice requirements when a special election is called, but does not explicitly state whether the provision applies to school elections or elections held on the same day as a primary or general election. Furthermore, there are a variety of other statutes concerning public notice of special purpose district and political subdivision elections. The revisions proposed in LC 143 broaden the application of section 13-1-108, MCA, to encompass political subdivision and school elections and make the changes shown in Table 3 below.

Table 3 - Public Notice Changes

Jurisdiction	Current law	Changes proposed in LC 143
School districts 20-20-204	<p>Not more than <u>30 days</u> and not less than <u>20 days</u> before the election</p> <p>Notice is by:</p> <ul style="list-style-type: none"> • posting in 3 public places, at least one notice in each ward or district; and • one notice in a newspaper of general circulation if there is one in the district <p>Trustees MAY do a radio or TV broadcast</p>	<p>Not more than <u>40 days</u> and not less than <u>10 days</u> before the election</p> <p>Must still post in 3 public places.</p> <p>Must provide 3 notices either by:</p> <ul style="list-style-type: none"> • publication in a newspaper of general circulation; or • broadcasting on radio or TV. <p>If newspaper of general circulation is a weekly paper, the notice may be published only 2 times.</p>
Political subdivisions 13-1-108	<p>Must be broadcast or published at least 3 times in the 4 weeks immediately preceding the election in a newspaper of general circulation where the election is held, or may just be broadcast on radio or TV.</p>	<p>Same as for schools above, except that posting in 3 public places is not required.</p>

Special purpose districts

Election deadlines

Current laws governing special purpose district elections generally follow the deadlines for primary and general elections. However, this is by default and not because the provisions clearly state the deadlines. Consequently, there may be confusion and inconsistency in how the laws are applied because deadlines currently change depending on whether the election is held in conjunction with a primary or general election, held in an even- or odd-numbered year, called as a special election, or conducted by mail.

Types of elections

Special purpose district elections may be held for the following reasons:

- to create a district;
- to change district boundaries;
- to dissolve a district;
- to elect a board of directors for the district; and
- if applicable, to impose, increase, or decrease a fee or tax to fund the district.

Consistency with school trustee elections

The changes proposed in LC 143 would require that all special purpose district elections be held on the same day as a school trustee election unless the governing body wants to hold a funding election on a different day (i.e., as a special election). Thus, LC 143 makes the deadlines for special purpose districts consistent with the deadlines for the school trustee elections.

Other local government elections

In addition to local government primary and general elections and special purpose district elections, there are numerous other local government elections that are also proposed for cleanup in LC 143. The revisions encompass the following types of elections:

- the creation, alteration, and abandonment of cities and counties;
- the establishment or change of various alternative forms of government for cities and counties; and
- various financing options for cities and counties, such as levies and bonds.

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CHAPTER 3

Emerging Issues

Veterans' affairs

Overview of activities

As a result of agency oversight activities and public testimony, SAVVA heard a briefing on veteran courts and examined whether and how to improve statewide and community outreach to veterans who do not necessarily participate in traditional veteran service organizations, such as the American Legion, Veterans of Foreign Wars, and Disabled American Veterans.

The State Administration and Veterans' Affairs Interim Committee's calendar of activities related to veterans is provided in the table below.

<i>Meeting Date</i>	<i>Major Agenda Topics</i>
June 11, 2013	<ul style="list-style-type: none">• Overview of the Montana Veterans' Affairs Division (MVAD)• MVAD July 1, 2012, Biennial Report
Dec. 10, 2013	<ul style="list-style-type: none">• Presentation on Veterans' Courts, Jeff Kushner, Statewide Drug Court Coordinator, Office of Court Administrator
Feb 6, 2014	<ul style="list-style-type: none">• Research memorandum presenting veteran population data• Montana Veterans' Affairs Division (MVAD) briefing by Joe Foster, benefits data, cemetery program, veteran drivers' license notation
April 9, 2014	<ul style="list-style-type: none">• Public comment from Mr. Joe Walsh, veteran, requesting Committee's consideration of statewide coordination of outreach to veterans
Aug. 15, 2014	<ul style="list-style-type: none">• Legislative Fiscal Division table on MVAD budget and expenses• MVAD July 1, 2014, Biennial Report• Panel discussion on statewide outreach - What would be the role and how might we provide for a state veteran outreach coordinator/ombudsman?<ul style="list-style-type: none">- Joe Walsh, Veteran- Brian Becker, Outreach Coordinator, Missoula Vet Center, VA- Joe Foster, Administrator, MVAD- Bruce Knutzon & Siobhan Gilmartin, U.S. Sen. Tester's Office- Connie LaSalle, Senior & Long-Term Care Ombudsman

<i>Meeting Date</i>	<i>Major Agenda Topics</i>
Nov 17, 2014	<ul style="list-style-type: none">• Montana Veterans' Affairs Division (MVAD) presentation of veteran population information• Review of veteran population data from federal VA• Summary of responses to solicitation of bill draft ideas• Public comment• Final action on veterans' outreach ideas - SAVA letter to House Appropriations for funding of an MVAD service office in Glasgow

Solicitation of bill draft ideas

Following the August 15, 2014, panel discussion about statewide and community outreach to veterans, SAVA requested that staff solicit bill draft ideas and comments from veterans' affairs stakeholders and consolidate the comments for SAVA's consideration and potential bill drafts for SAVA's final meeting on November 17, 2014.²²

Veterans' service office in Glasgow recommended

At its November 17, 2014, meeting, SAVA voted to recommend to the House Appropriations Committee and the joint subcommittee that considers the budget for the Montana Veterans' Affairs Division (MVAD) that funds be appropriated to establish a new veterans' service office in Glasgow. Although some stakeholders supported a statewide coordinator or veteran outreach position, the American Legion, the Veterans of Foreign Wars, and the director of the Montana Center for Veterans' Training and Education each supported a Glasgow MVAD office as well as additional staff for the MVAD. The MVAD veteran service officers help veterans submit benefit claims to the federal Veterans' Administration.²³ A copy of SAVA's letter to the House Appropriations Committee is provided at the end of **Appendix A**.

Disclosure of election materials - LC 146

During SAVA's June 5, 2014, review of legislative proposals from the COPP, the Committee discussed a court injunction against the enforcement of a certain provision of 13-35-225. The provision was declared unconstitutionally vague. The Committee also heard testimony about the legislative history of HB 129 from the 2013 Session carried by Rep. Steve Gibson, which amended the subsection with the troublesome language, specifically the language in 13-35-225(3)(a)(ii) concerning voting records. The subsection reads as follows:

- "(3) (a) Printed election material described in subsection (1) that includes information about another candidate's voting record must include the following:
- (i) a reference to the particular vote or votes upon which the information is based;
 - (ii) a disclosure of contrasting votes known to have been made by the candidate **on the same issue** if the contrasting votes were made **in any of the previous 6 years;....**" [emphasis added]

²² State Administration and Veterans' Affairs Interim Committee, Minutes, Montana Legislative Services Division, August 15, 2014, audio/video time 05:11:17.

²³ State Administration and Veterans' Affairs Interim Committee, Minutes, Montana Legislative Services Division, November, 2014, audio/video time beginning 07:46:00.

HB 129 inserted "in any of the previous 6 years" and struck the previous language "if closely related in time", which fixed part of the vagueness concerns. However, the language "on the same issue" was not addressed in HB 129, so remained in the statute.²⁴

The State Administration and Veterans' Affairs Interim Committee ultimately requested a preliminary committee bill draft, LC 146, so SAVA members could further consider how to fix the language in 13-35-225(3)(a)(ii).²⁵ At its August 15, 2014, meeting, SAVA members debated whether to specify that the votes had to be related to a specific piece of legislation and what votes should have to be disclosed. Concerns were raised that requiring **all** votes on a particular piece of legislation was too much to require; SAVA ultimately voted 5 to 3 (Sen. Lewis, Rep. Kary, and Rep. Blyton, voting no) to support LC 146 as a committee bill.²⁶

Secretary of State rulemaking - LC 145

Staff rule review of Montana Administrative Register Notice 44-2-196 raised to SAVA concerns about the lack of authority in current statute for the Secretary of State to adopt by rule certain miscellaneous fees charged by the Business Services Division for bonds, cashier's checks, and certificates of deposit.²⁷ The Secretary of State's Office wanted to proceed with its proposed amendments to its rules. However, SAVA chose to resolve the matter through a committee bill (LC 145) to authorize in statute the rulemaking authority concerning these fees.²⁸

Interim oversight of State Tax Appeal Board - LC 304

Current statute provides that SAVA has legislative oversight over all entities administratively attached to the Department of Administration. The statute specifically excludes some entities from this oversight by SAVA because other interim committees are a more appropriate venue for rule review and agency bill draft request authorization.

Currently, the following entities administratively attached to the Department of Administration are assigned to other interim committees for legislative oversight:

- the state compensation insurance fund and its board of directors;
- the office of state public defender; and
- the division of banking and financial institutions.²⁹

²⁴ State Administration and Veterans' Affairs Interim Committee, Minutes, Montana Legislative Services Division, June 5, 2014, audio/video time 00:53:49 through 01:32:33.

²⁵ *Ibid.*, audio/video time 01:18:22 through 01:32:33.

²⁶ State Administration and Veterans' Affairs Interim Committee, Minutes, Montana Legislative Services Division, June 5, 2014, audio/video time 02:53:28 through 03:09:05 and August 15, 2014, audio/video time 08:11:27 through 08:14:11.

²⁷ K. Virginia Aldrich, Legislative Rule Review Report memorandum to the State Administration and Veterans' Affairs Interim Committee, May 23, 2014, Legal Services Office, Montana Legislative Services Division.

²⁸ State Administration and Veterans' Affairs Interim Committee, Minutes, Montana Legislative Services Division, August 15, 2014, audio/video time 00:38:57 through 01:03:00.

²⁹ Section 5-5-228, MCA.

The State Tax Appeal Board is administratively attached to the Department of Administration, so it is SAVA's responsibility to provide legislative oversight for this agency. However, after some discussion, SAVA agreed that the Revenue and Transportation Interim Committee (RTIC) would be the most appropriate interim committee to provide this oversight and requested a committee bill to make this change, and any other interim committee oversight change that legislative staff may identify as appropriate.³⁰

The RTIC agreed to join SAVA in requesting the bill (LC 304) with respect to oversight of the State Tax Appeal Board.³¹

The Economic Affairs Interim Committee (EAIC) decided not to weigh in on whether to assume oversight authority over the State Lottery Commission, which is also attached to the Department of Administration and was identified by staff as an agency that could potentially be overseen by EAIC instead of SAVA.³² Therefore, LC 304 does not include that change and, unless the bill is amended during the session to include a change to oversight of the state lottery, SAVA remains responsible for legislative oversight of the entity.

³⁰ State Administration and Veterans' Affairs Interim Committee, Minutes, Montana Legislative Services Division, August 15, 2014, audio/video time 01:16:00 through 01:21:10.

³¹ Revenue and Transportation Interim Committee, Minutes, Montana Legislative Services Division, September 5, 2014, audio/video time 08:05:10 through 08:08:52.

³² Economic Affairs Interim Committee, Minutes, Montana Legislative Services Division, September 12, 2014, audio/video time 09:02:35 through 09:05:51.

Appendix A

Committee Bills As Approved

Letter to House Appropriations on
Veterans' Affairs Funding

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1 SENATE BILL NO. 1

2 INTRODUCED BY D. KARY

3 BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE SECRETARY OF STATE TO COLLECT CERTAIN
6 FEES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 20-7-604 AND 82-1-104, MCA; AND
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10

11 **Section 1.** Section 20-7-604, MCA, is amended to read:

12 **"20-7-604. Licensing textbook dealers.** (1) Textbook dealers must be licensed by the
13 superintendent of public instruction. To obtain a license, a textbook dealer shall first file with the superintendent
14 of public instruction the dealer's written agreement to:

15 (a) guarantee that textbooks must be supplied to any district at the listed, uniform sales prices in effect
16 for schools, except that the prices may be reduced in accordance with this section;

17 (b) guarantee that at no time will any textbook sale price in Montana be a larger amount than the sale
18 price to schools anywhere else in the United States under similar conditions of transportation and marketing; and

19 (c) reduce automatically the listed, uniform sales price to schools whenever reductions of these prices
20 are made anywhere in the United States.

21 (2) (a) Textbook dealers filing the written agreement with the superintendent of public instruction shall
22 also file a surety bond with the secretary of state. The surety bond must run to the state of Montana and be
23 conditioned on the faithful performance of all duties imposed upon textbook dealers for the purpose of regulating
24 the supply of textbooks to districts. The amount of the surety bond must be set by the superintendent of public
25 instruction and may not be less than \$2,000 or more than \$10,000. It is the responsibility of the textbook dealer
26 to maintain the surety bond on a current basis.

27 (b) The secretary of state may charge a fee for the filing of the surety bond required under this section.
28 The fee must be set by rule and deposited in accordance with 2-15-405.

29 (3) When the textbook dealer has complied with the written agreement and surety bond requirements
30 for licensing, the superintendent of public instruction shall issue a license to the textbook dealer."

1

2 **Section 2.** Section 82-1-104, MCA, is amended to read:

3 **"82-1-104. Indemnification of property owners -- restoration of surface.** (1) (a) Prior to performing
4 seismic activity, a person, firm, or corporation shall file with the secretary of state a surety bond, cash, certificate
5 of deposit, or other instrument acceptable to the secretary of state in the amount of \$10,000 for a single seismic
6 crew or a blanket surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state
7 in the amount of \$25,000 for all seismic crews operating within the state for the person, firm, or corporation to
8 indemnify the owners of property within this state for physical damages to their property resulting from any
9 seismic exploration. Partial or complete forfeiture of the surety bond, cash, certificate of deposit, or other
10 instrument acceptable to the secretary of state must be determined by the appropriate court of civil jurisdiction.

11 (b) The secretary of state may charge a fee for the filing of the surety bond, cash, certificate of deposit,
12 or other instrument required under this section. The fee must be set by rule and deposited in accordance with
13 2-15-405.

14 (2) Unless the owner of the surface rights and the person, firm, or corporation conducting seismic activity
15 agree otherwise, it is the obligation of the person, firm, or corporation upon completion of seismic exploration to
16 plug all "shot holes" in the manner specified by the board of oil and gas conservation to contain any water within
17 its native strata by filling the holes with bentonite mud, cement, or other material approved by the board of oil and
18 gas conservation to contain the water. In addition, the holes must be capped in a manner and with a material
19 specified by the board of oil and gas conservation so that the top of the cap is a sufficient depth below the surface
20 of the land to allow cultivation. The portion of the holes above the cap must be filled with native material.

21 (3) Upon completion of any seismic exploration, the person, firm, or corporation conducting the
22 exploration shall remove all stakes, markers, cables, ropes, wires, and debris or other material used in the
23 exploration and shall also restore the surface around any shot holes as near as practicable to its original
24 condition.

25 (4) The surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state
26 must remain on file with the secretary of state so long as the exploration is conducted, plus an additional 5 years
27 after the cessation of the exploration activities. The aggregate liability for the exploration activities may not exceed
28 the amount of the surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of
29 state. Upon the filing of the surety bond, cash, certificate of deposit, or other instrument acceptable to the
30 secretary of state, the secretary of state shall issue to the person, firm, or corporation a certificate showing that

1 the surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state has been
2 filed. The certificate must contain the name of the designated resident agent within the state for service of process
3 for the person, firm, or corporation."

4

5 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

6

- END -

SENATE BILL NO. 13

INTRODUCED BY S. MALEK

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DISCLOSURE OF ALL VOTES ON A LEGISLATIVE BILL OR ENACTMENT IN CERTAIN PRINTED ELECTION MATERIAL; AND AMENDING SECTION 13-35-225, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-35-225, MCA, is amended to read:

"13-35-225. Election materials not to be anonymous -- statement of accuracy -- notice -- penalty.

(1) All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication. The attribution must contain:

(a) for election material financed by a candidate or a candidate's campaign finances, the name and the address of the candidate or the candidate's campaign; and

(b) for election material financed by a political committee, the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer.

(2) Communications in a partisan election financed by a candidate or a political committee organized on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

(3) (a) Printed election material described in subsection (1) that includes information about another candidate's voting record must include the following:

(i) a reference to the particular vote or votes upon which the information is based;

(ii) a disclosure of ~~contrasting~~ all votes ~~known to have been~~ made by the candidate on the same issue ~~if the contrasting votes were made in any of the previous 6 years~~ legislative bill or enactment; and

(iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the statements made about the other candidate's voting record are accurate and true.

1 (b) The statement required under subsection (3)(a) must be signed:

2 (i) by the candidate if the election material was prepared for the candidate or the candidate's political
3 committee and includes information about another candidate's voting record; or

4 (ii) by the person financing the communication or the person's legal agent if the election material was not
5 prepared for a candidate or a candidate's political committee.

6 (4) If a document or other article of advertising is too small for the requirements of subsections (1)
7 through (3) to be conveniently included, the candidate responsible for the material or the person financing the
8 communication shall file a copy of the article with the commissioner of political practices, together with the
9 required information or statement, at the time of its public distribution.

10 (5) If information required in subsections (1) through (3) is omitted or not printed, upon discovery of or
11 notification about the omission, the candidate responsible for the material or the person financing the
12 communication shall:

13 (a) file notification of the omission with the commissioner of political practices within 5 days of the
14 discovery or notification;

15 (b) bring the material into compliance with subsections (1) through (3); and

16 (c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

17 (6) Whenever the commissioner receives a complaint alleging a violation of subsection (1) or (2), the
18 commissioner shall as soon as practicable assess the merits of the complaint.

19 (7) (a) If the commissioner determines that the complaint has merit, the commissioner shall notify the
20 complainant and the candidate or political committee of the commissioner's determination. The notice must state
21 that the candidate or political committee shall bring the material into compliance as required under this section:

22 (i) within 5 days after receiving the notification if the notification occurs more than 7 days prior to an
23 election; or

24 (ii) within 24 hours after receiving the notification if the notification occurs 7 days or less prior to an
25 election.

26 (b) When notifying the candidate or campaign committee under subsection (7)(a), the commissioner shall
27 include a statement that if the candidate or political committee fails to bring the material into compliance as
28 required under this section, the candidate or political committee is subject to a civil penalty pursuant to
29 13-37-128."

30 - END -

SENATE BILL NO. 16

INTRODUCED BY D. BROWN

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING HOW THE COMMISSIONER OF POLITICAL PRACTICES IS APPOINTED; AMENDING SECTIONS 13-37-102 AND 13-37-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-37-102, MCA, is amended to read:

"13-37-102. Creation of office -- nomination -- appointment -- removal. (1) There is a commissioner of political practices who is appointed by the governor, subject to confirmation by a majority of the senate.

(2) (a) A four-member ~~selection~~ nomination committee composed of the speaker of the house, the president of the senate, and the minority leaders of both houses of the legislature shall submit to the governor a list of not less than two or more than five names of individuals for the governor's consideration. A majority of the members of the ~~selection~~ nomination committee shall agree ~~upon~~ on each nomination.

(b) The governor shall appoint the commissioner from the list of nominees submitted by the nomination committee. However, if the nomination committee fails to submit names agreed to by the majority of the nomination committee members, the governor may appoint anyone who meets the qualifications set forth in 13-37-107.

~~(2)~~(3) The individual selected to serve as commissioner may be removed by the governor prior to the expiration of the term only for incompetence, malfeasance, or neglect of duty. The governor's decision to remove the commissioner must be stated in writing, and the sufficiency of the governor's stated causes for removing the commissioner is subject to judicial review."

Section 2. Section 13-37-104, MCA, is amended to read:

"13-37-104. Vacancy. (1) If for any reason a vacancy occurs in the position of commissioner, a successor must be appointed ~~within 30 days~~ as provided in 13-37-102(1) within 30 days of the vacancy to serve out the unexpired term. ~~Each nomination~~ The governor's appointee must be confirmed by the senate, but a

1 ~~nomination~~ an appointment made while the senate is not in session is effective as an appointment until the end
2 of the next session.

3 (2) An individual who is selected to serve out the unexpired term of a preceding commissioner and who
4 has served 3 years or more of an unexpired term is not eligible for reappointment.

5 (3) An individual who is selected to serve out the unexpired term of a preceding commissioner and who
6 has served less than 3 years of an unexpired term may be reappointed for a 6-year term as provided in
7 13-37-102(4)."

8

9 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

10

- END -

1 SENATE BILL NO. 27

2 INTRODUCED BY D. BROWN

3 BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE AND THE STATE

4 ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INTERIM COMMITTEE DUTIES RELATED TO
7 ADMINISTRATIVE RULE REVIEW, DRAFT LEGISLATION REVIEW, PROGRAM EVALUATION, AND
8 MONITORING OF CERTAIN AGENCIES; AMENDING SECTIONS 5-5-227 AND 5-5-228, MCA; AND
9 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 5-5-227, MCA, is amended to read:

14 **"5-5-227. Revenue and transportation interim committee -- powers and duties -- revenue**
15 **estimating and use of estimates.** (1) The revenue and transportation interim committee has administrative rule
16 review, draft legislation review, program evaluation, and monitoring functions for the department of revenue and
17 the department of transportation, and for the entities attached to the departments for administrative purposes,
18 and for the state tax appeal board established in 2-15-1015.

19 (2) (a) The committee must have prepared by December 1 for introduction during each regular session
20 of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected
21 to be available for legislative appropriation.

22 (b) The committee may prepare for introduction during a special session of the legislature in which a
23 revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The
24 revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

25 (3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current
26 revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the
27 legislature's estimates and the assumptions underlying the estimates will be used by all agencies with
28 responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

29 (4) The legislative services division shall provide staff assistance to the committee. The committee may
30 request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the

1 department of revenue, and any other agency that has information regarding any of the tax or revenue bases of
2 the state."

3

4 **Section 2.** Section 5-5-228, MCA, is amended to read:

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

10 (a) department of administration, except:

11 (i) the state compensation insurance fund provided for in 39-71-2313, including the board of directors
12 of the state compensation insurance fund established in 2-15-1019;

13 (ii) the state tax appeal board established in 2-15-1015;

14 ~~(ii)~~(iii) the office of state public defender; and

15 ~~(iii)~~(iv) the division of banking and financial institutions;

16 (b) department of military affairs; and

17 (c) office of the secretary of state.

18 (2) The committee shall:

19 (a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based
20 on reports from the teachers' retirement board, the public employees' retirement board, and the board of
21 investments, and study and evaluate the equity and benefit structure of the state's public employee retirement
22 systems;

23 (b) establish principles of sound fiscal and public policy as guidelines;

24 (c) as necessary, develop legislation to keep the retirement systems consistent with sound policy
25 principles; and

26 (d) publish, for legislators' use, information on the public employee retirement systems that the
27 committee considers will be valuable to legislators when considering retirement legislation.

28 (3) The committee may:

29 (a) specify the date by which retirement board proposals affecting a retirement system must be submitted
30 to the committee for the review pursuant to subsection (1); and

1 (b) request personnel from state agencies, including boards, political subdivisions, and the state public
2 employee retirement systems, to furnish any information and render any assistance that the committee may
3 request."

4

5 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

6

- END -

SENATE BILL NO. 42

INTRODUCED BY S. MALEK

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ALLOCATION OF EMPLOYER CONTRIBUTIONS AND THE EFFECTIVE DATE FOR CHANGES IN THE ALLOCATION OF EMPLOYER CONTRIBUTIONS IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED CONTRIBUTION PLAN AND THE UNIVERSITY SYSTEM RETIREMENT PROGRAM; AMENDING SECTIONS 19-3-2117, 19-3-2121, AND 19-21-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-3-2117, MCA, is amended to read:

"19-3-2117. Allocation of contributions and forfeitures. (1) The member contributions made under 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the plan member's retirement account.

(2) Subject to subsection (3) and adjustment by the board as provided in 19-3-2121, of the employer contributions under 19-3-316 received:

(a) an amount equal to:

(i) 4.19% of compensation must be allocated to the member's retirement account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

(iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

(iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established pursuant to 19-3-2141;

(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-316(4)(b), the percentage of compensation specified in subsection (3) of this section ~~of compensation~~ must be allocated in the following order:

~~(i) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; and~~

~~(ii) to the long-term disability plan trust fund to provide disability benefits to eligible members; and~~

(c) on July 1, 2013, continuing until ~~the additional employer contributions terminate pursuant to~~

1 ~~19-3-316(4)(b)~~ June 30, 2015, 1% of compensation must be allocated to the defined benefit plan unfunded
2 liabilities; and

3 (d) on July 1, 2015, continuing until the plan choice rate unfunded actuarial liability in the defined benefit
4 plan is fully paid, 1% of compensation must be allocated to the defined benefit plan as part of the plan choice rate.
5 Effective the first full pay period of the month following the board's verification that the plan choice rate unfunded
6 actuarial liability is fully paid, the 1% of compensation must be allocated to the member's account.

7 (3) The percentage of compensation to be contributed under subsection (2)(b) is 0.27% for fiscal year
8 2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30,
9 2024, the percentage of compensation to be contributed under subsection (2)(b) is 1.27%. If the plan choice rate
10 unfunded actuarial liability is paid off prior to the termination of the additional contributions pursuant to
11 19-3-316(4)(b), effective the first full pay period of the month following the board's verification that the plan choice
12 rate unfunded actuarial liability is fully paid, the percentage of compensation allocated as part of the plan choice
13 rate under this subsection must be allocated to the member's account until the additional contributions terminate
14 pursuant to 19-3-316(4)(b).

15 (4) Forfeitures of employer contributions and investment income on the employer contributions may not
16 be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116 to
17 meet the plan's administrative expenses, including startup expenses."
18

19 **Section 2.** Section 19-3-2121, MCA, is amended to read:

20 **"19-3-2121. Determination and adjustment of plan choice rate and contribution allocations.** (1)
21 The board shall periodically review the sufficiency of the plan choice rate and shall adjust the allocation of
22 contributions under 19-3-2117 as specified in this section. The board shall collect and maintain the data
23 necessary to comply with this section.

24 (2) The plan choice rate set in 19-3-2117(2)(a)(ii) must be adjusted as provided in this section, taking
25 into account:

26 (a) as determined under subsection (3), the change in the normal cost contribution rate in the defined
27 benefit plan that is the result of member selection of the defined contribution plan; and

28 (b) as determined under subsection (4), the sufficiency of the plan choice rate to actuarially fund the
29 defined contribution plan member's appropriate share of the defined benefit plan's unfunded liabilities.

30 (3) The change in the normal cost contribution rate must be an amount equal to the difference between

1 the normal cost contribution rate in the defined benefit plan that would have resulted if all system members
2 remained in the defined benefit plan and the normal cost contribution rate in the defined benefit plan for the actual
3 members of the defined benefit plan, multiplied by the compensation paid to all of the members in the defined
4 benefit plan, divided by the compensation paid to all of the members in the defined contribution plan. The
5 measurements under this subsection must be based on the defined benefit plan in effect on the effective date
6 of the defined contribution plan until the board determines that the defined benefit plan has been amended in a
7 manner that significantly affects plan choices available to system members. After a board determination that the
8 defined benefit plan has been significantly changed, the measurements in this subsection with respect to
9 members entering the system after the significant change must be made on the basis of the defined benefit plan,
10 as amended.

11 (4) The sufficiency of the plan choice rate to actuarially fund the appropriate share of the defined benefit
12 plan's unfunded liabilities must be determined as follows:

13 (a) The board shall determine the number of years required to actuarially fund the defined benefit plan's
14 unfunded liabilities as of the June 30, 1998, actuarial valuation, which must be the initial schedule for the defined
15 contribution plan to actuarially fund the plan's share of the unfunded liabilities. The board shall reduce the
16 schedule by 1 year each biennium.

17 (b) During each subsequent actuarial valuation of the defined benefit plan conducted pursuant to
18 19-2-405, the board shall determine whether the plan choice rate minus the amount provided in subsection (2)(a)
19 of this section is sufficient to pay the unfunded liability obligations within the schedule determined under
20 subsection (4)(a) of this section. If the amount is insufficient to fund the liability over a period of 10 years longer
21 than the scheduled period or is more than sufficient to fund the liability over a period of 10 years earlier than the
22 scheduled period, the board shall determine to the nearest 0.1% the amount of the increase or decrease in the
23 plan choice rate that is required to actuarially fund the liabilities according to the established schedule.

24 (5) If the board determines that the plan choice rate should be increased or decreased, the plan choice
25 rate under 19-3-2117(2)(a)(ii) must be increased or decreased accordingly. If the plan choice rate is increased,
26 the allocation of employer contributions to member accounts under 19-3-2117(2)(a)(i) must be decreased by that
27 amount. If the plan choice rate is decreased, the allocation of employer contributions to member accounts under
28 19-3-2117(2)(a)(i) must be increased by that amount.

29 (6) If the board determines that the contribution rate to the disability plan under 19-3-2117(2)(a)(iv)
30 should be increased, the employer contribution to each member's account under 19-3-2117(2)(a)(i) must be

1 decreased by that amount. If the board determines that the contribution rate to the disability plan under
 2 19-3-2117(2)(a)(iv) should be decreased, the employer contribution to each member's account under
 3 19-3-2117(2)(a)(i) must be increased by that amount.

4 (7) By November 1 of the year of a determination pursuant to this section that the allocation of employer
 5 contributions under 19-3-2117(2) must be changed, the board shall notify system members, participating
 6 employers, employee and employer organizations, the governor, and the legislature of its determination and of
 7 the changes required.

8 (8) ~~Effective~~ A change in the allocation of contributions pursuant to this section is effective January 1 ~~of~~
 9 ~~the year after the regular legislative session that immediately follows a determination under this section, the plan~~
 10 ~~choice rate and the allocation of contributions under 19-3-2117(2) must be adjusted according to~~ following the
 11 board's determination."
 12

13 **Section 3.** Section 19-21-214, MCA, is amended to read:

14 **"19-21-214. Contributions and allocations for employees in positions covered under the public**
 15 **employees' retirement system.** (1) The contribution rates for employees in positions covered under the public
 16 employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

17 (a) the member's contribution rate must be the rate provided in 19-3-315; and

18 (b) the employer's contribution rate must be the rate provided in 19-3-316.

19 (2) Subject to subsection (3), of the employer's contribution:

20 (a) an amount equal to:

21 (i) 4.49% of compensation must be allocated to the participant's program account;

22 (ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees'
 23 retirement system as the plan choice rate; and

24 (iii) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b); ~~and~~

25 (b) (i) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to
 26 19-3-316(4)(b), 0.27% of compensation must be allocated to the defined benefit plan to eliminate the plan choice
 27 rate unfunded actuarial liability.

28 (ii) on July 1, 2013, continuing until the additional employer contributions terminate pursuant to
 29 19-3-316(4)(b), the 0.27% contribution rate under subsection (2)(b)(i) must be increased by 0.1% each fiscal year
 30 through fiscal year 2024. For fiscal years beginning after June 30, 2024, the percentage of compensation

1 allocated under this subsection (2)(b) must be 1.27%. If the plan choice rate unfunded actuarial liability is paid
2 off before the additional employer contributions terminate pursuant to 19-3-316(4)(b), effective the first full pay
3 period of the month following the board's verification that the plan choice rate is fully paid, the percentage of
4 compensation allocated to the plan choice rate under this subsection (2)(b) must be allocated to the program
5 participant's account until the additional contributions terminate pursuant to 19-3-316(4)(b).

6 (c) on July 1, 2013, continuing until June 30, 2015, 1% of compensation must be allocated to the defined
7 benefit plan unfunded liabilities; and

8 (d) on July 1, 2015, 1% of compensation must be allocated to the defined benefit plan to pay the plan
9 choice rate unfunded actuarial liability. Effective the first full pay period of the month following verification by the
10 public employees' retirement board that the plan choice rate unfunded actuarial liability is fully paid, the 1% of
11 compensation must be allocated to the program participant's account.

12 (3) The allocations under subsection (2)(a) are subject to adjustment by the public employees' retirement
13 board, but only as described in and in a manner consistent with the express provisions of 19-3-2121."
14

15 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.
16

17 **NEW SECTION. Section 5. Retroactive applicability.** [Section 3(2)(b)(ii) and (2)(c)] apply retroactively,
18 within the meaning of 1-2-109, to contributions under 19-21-214(2)(b) on and after July 1, 2013.
19

- END -



PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

State Administration and Veterans' Affairs Interim Committee

63rd Montana Legislature

SENATE MEMBERS

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LARRY JENT
DAVE LEWIS
SUE MALEK

HOUSE MEMBERS

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COMMITTEE STAFF

SHERI SCURR, Lead Staff
GINGER ALDRICH, Staff Attorney
KRISTINA LIMING, Secretary

December 2, 2014

Rep. Nancy Ballance, Chairwoman
House Appropriations Committee

Rep. Ryan Osmundson, Chairman, and Sen. Janna Taylor, Vice-Chairwoman
Approp/Finance Joint Subcommittee, General Government

Dear Chairwoman Balance, Chairman Osmundson, and Vice-Chairwoman Taylor:

The State Administration & Veterans' Affairs Interim Committee held multiple listening sessions and panel discussions this interim regarding veteran outreach needs across Montana. The rural nature of our state, along with Montana having the second highest number of veterans per capita in the U.S., compels us to address some ongoing needs to serve our veterans and their families more efficiently.

Our committee found a pressing need for more outreach officers at each of the Montana Veterans' Affairs Division (MVAD) offices throughout the state and a growing need for an office in Glasgow. The MVAD is the state agency responsible for helping Montana's veterans file benefit claims with the U.S. Department of Veterans' Affairs. Montana now has veteran service offices in the following 10 communities: Belgrade, Billings, Butte, Great Falls, Havre, Helena, Kalispell, Lewistown, Miles City, and Missoula. This leaves a gap in the northeastern part of our state. An office in Glasgow would relieve the burdens on both the Havre and Miles City offices and provide a needed service closer to the Native American populations in the area.

Therefore, as you fine tune the state's budget, we hope you will prioritize funding for an MVAD service office in Glasgow. Adding outreach personnel to MVAD offices throughout the state would be the second highest priority we identified.

Thank you for your consideration. We can never forget the sacrifices our veterans and their families have made. We would appreciate your approval of the added funding.

Sincerely,

Senator Dee Brown, Chairwoman

Representative Bryce Bennett, Vice-Chairman

cc Joe Foster, Administrator, MVAD
Amy Carlson, Legislative Fiscal Analyst

CI0134 4336shxa.

Appendix B

HB 84 (LC0143) - Revise Election Laws
Section-by-Section Summary

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**Section-by-Section Summary of HB 84
(LC0143)
General Revision of Election Laws**

Prepared by Sheri Scurr, Legislative Services Division
for the State Administration and Veterans' Affairs Interim Committee

**As Approved by SAVA on Nov. 17, 2014
with final proofing on Dec. 22, 2014**

Red = Substantive Changes in Current Law

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
1.	NEW. Purpose.	Special purpose districts. Establishes statement of purpose for the part in which the new sections will be codified. Sections 1 through 5 (the new part) would apply only to special purpose districts.	N/A simply states purpose
2.	NEW. Deadlines for candidate filing, write-in candidacy, and withdrawal – election cancellation – election by acclamation.	Special purpose districts. Candidate filing deadline - 145 days to 85 days before No withdrawal after – 85 days before Write-in deadline – 30 days before (10 th day before absentee ballots must be available, which is 20 th day before) <i>*Note: Above deadlines conform to primary and general election deadlines, with changes as proposed in LC 143. See 13-10-201, 13-10-211, 13-10-325</i> Election may be canceled – 30 days before Election by acclamation - if only one candidate for an office If no candidate for a position , position is filled by appointment	X
3.	NEW. Deadlines for absentee and mail ballots.	Special purpose districts. Absentee and mail ballot deadlines - 20 days before - polling place election - 20 to 15 days before – mail ballot election	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
4.	NEW. Date special purpose district elections may be held.	<p>Special purpose districts. Elections must be held on same day as the regular trustee school elections – first Tues. after first Mon. in May. Funding elections could still be held on a special day as a special election. Election could not be held on a primary or general election day.</p> <p>Conservation district elections are excepted so their elections remain on either a primary or general election day.</p> <p>Election may not be less than 85 days after the election is called.</p>	X
5.	NEW. Conduct of elections.	<p>Special purpose districts. Clarifies that the election must be conducted as provided in Title 13.</p>	No substantive change
6.	NEW. Purpose – definition.	<p>City or county elections. Establishes a definition of “local government” that <u>excludes</u> special purpose districts and school districts. Sections 6 through 10 apply to these local government elections.</p>	No substantive change
7.	NEW. Deadlines for candidate filing, write-in candidacy, and withdrawal – election cancellation – election by acclamation.	<p>Certain city and county elections. <i>(Elections covered are those for special reasons, such as changing form of government, altering boundaries, removing county seat, consolidating a county and/or city government, etc.)</i></p> <p>Candidate filing deadline - 145 days to 85 days before No withdrawal after – 85 days before Write-in deadline – 30 days before (10th day before absentee ballots must be available, which is 20th day before)</p> <p><i>*Note: Above deadlines conform to primary and general election deadlines, with changes as proposed in LC 143. See 13-10-201, 13-10-211, 13-10-325</i></p> <p>Election may be canceled – 30 days before Election by acclamation - if only one candidate for an office If no candidate for a position – filled by appointment</p>	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
8.	NEW. Deadlines for absentee and mail ballots.	Certain city and county elections. Absentee ballots must be available 25 days prior to the election rather than 30 days. Note: This change is also requested for primary and general election absentee ballots. See also amendments to 13-13-205 on absentee voting.	X
9.	NEW. Date local government elections may be held.	Certain city and county elections. Elections that are not funding elections <u>must</u> be held on primary or general election day. A funding election may be called as a special election. The election must be called at least 85 days prior to the election.	X
10.	NEW. Conduct of elections.	Certain city and county elections. Clarifying that these elections must be conducted in the same manner as other elections.	No substantive change
11.	2-16-622. Resignation of officer – proclamation of election.	Montana Recall Act. Changes the effective date for a resignation of an officer named in a recall petition from immediate to 72 hours after the letter of resignation to make it consistent with the 72-hour timeframe in 2-16-502 for any other resignation. Strikes requirement for <u>separate ballot</u> .	X
12.	3-1-1013. Senate confirmation -- ...	Senate confirmation. No substantive change. Update of internal reference.	No substantive change
13.	3-6-201. Number of judges...	Update internal reference	No substantive change
14.	3-10-101. Number and location of justices' courts...	Update internal reference	No substantive change
15.	3-11-101. City court established...	Update internal reference	No substantive change

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
16.	7-1-201. Boards.	Local government boards and commissions. Revisions provide general cleanup and a reference back to [sections 1 through 5] concerning special purpose district elections. Substantive change is to make the 4-year maximum term applicable to elected members of special boards as well as to appointed members. See subsection (5)(c).	X
17.	7-1-2121. Publication and content of notice -- proof of publication.	Counties. Internal reference inserted to clarify notice of elections must be as provided in 13-1-108.	No substantive change
18.	7-1-4130. Petition.	Update internal reference	No substantive change
19.	7-2-2215. Election on question of creating new county -- proclamation and notice.	Counties. Change is to conform section to standard sections so that an election to create a new county may not be held sooner than 85 after the call of the election. Was 60 days after.	X
20.	7-2-2604. Consideration of petition -- submission to voters -- <u>withdrawal of signatures.</u>	Counties. Change is to allow a person to withdraw his/her signature from a petition to change the location of a county seat in the same way as is allowed under current law for a petition to consolidate a county. (See 7-2-2705)	X
21.	7-2-2705. Petition to amend proposed consolidation.	Counties. Concerns petition to consolidate counties. Clean up only.	No substantive change
22.	7-2-2709. Election on question of abandonment and consolidation.	Counties. Concerns an election to abandon and consolidate counties. Amended to provide internal reference back to Sections 6 through 10 and for cleanup. No substantive changes.	No substantive change
23.	7-2-2804. Order for election -- registered electors entitled to vote.	Counties. Election to change the boundary of county must be called by 85 days before the date of the election instead of by 75 days before.	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
24.	7-2-4104. Election on question of organization.	Municipalities. Concerns election on the incorporation of a municipality. Amended to provide internal reference back to Sections 6 through 10 on local government elections and for cleanup. No substantive changes.	No substantive change
25.	7-2-4106. First election for officers.	Municipalities. Concerns first election of officers for a newly incorporated municipality. Provides that <u>first</u> election of officers does not involve a primary.	X
26.	7-2-4314. Hearing on question of annexation -- vote ...	Municipalities. Concerns an election on annexation of an area to become part of a city or town. Amended to provide internal reference back to Sections 6 through 10 and for cleanup. Change requires election to be held no sooner than 85 days after the election instead of 45 days after.	X
27.	7-2-4601. Annexation by petition.	Municipalities. Cleanup.	No substantive changes.
28.	7-2-4602. Election on question of annexation by petition.	Municipalities. Concerns any election on annexation of an area to become part of a city or town. Amended to provide internal reference back to Sections 6 through 10. Changes are that the election may not be held sooner than 85 days after the call and the election must be held on a primary or general election day. Current law allows a special election. Eliminates requirement for a separate ballot.	X
29.	7-2-4606. Resolution of annexation.	Municipalities. Clean up of terms.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
30.	7-2-4733. Vote required on proposed capital improvements	<p>Municipalities. Concerns election on question of annexation to city. Conforms election to standard sections 6 through 10, so election must be held on primary or general election day and may not be held sooner than 85 days after the election is called. Current law in 7-2-4904 simply says the election shall be conducted in the same manner as regular city or town elections.</p>	X
31.	7-2-4902. Disincorporation by election.	<p>Municipalities. Concerns election on disincorporating a city or town. Amended to provide internal reference back to Sections 6 through 10. Requires the election to be held on a primary or general election day and that it not be held sooner than 85 days after the call. Current law requires a special election but does not specify when. Because current generally applicable law sometimes refers to a special election as being held on primary or general election day, it is hard to discern whether this election “must” or “may” be held on a primary or general election day.</p>	X
32.	7-2-4904. Details of election on disincorporation Ballot form.	<p>Municipalities. Concerns election on disincorporating a city or town. Clean up. Language on conduct of election is more appropriately provided in revisions to 7-2-4902.</p>	No substantive changes.
33.	7-3-103. Amendment of self-government charter or adopted alternative form of government.	<p>Counties and cities. Concerns election on charter or an alternative form of local government. Cleanup to provide internal reference 7-3-125 and strike redundant language.</p>	No substantive changes.
34.	7-3-121. Purpose.	<p>Counties and cities. Update internal references</p>	No substantive change
35.	7-3-122. Definitions.	<p>Counties and cities. Update internal references</p>	No substantive change
36.	7-3-125. Petition for alteration.	<p>Counties and cities. Concerns election to alter a local form of government. Clean up to strike redundant language.</p>	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
37.	7-3-149. Election on alteration of form of government.	Counties and cities. Concerns election to alter a local form of government. Amended to provide internal reference back to Sections 6 through 10. Substantive change is to strikes specific reference to election being called 75 days before election. Effect is to require election to be held on primary or general election that is at least 85 days after the call for the election.	X
38.	7-3-154. Judicial review.	Counties and cities. Update internal reference	No substantive change
39.	7-3-155. Three-year moratorium.	Counties and cities. Concerns election to alter a local form of government. Clean up.	No substantive changes.
40.	7-3-160. Election of new officials.	Counties and cities. Concerns election of new officials after electors have approved a change in the form of a local government. Provides internal reference back to Sections 6 through 10 and primary and general election sections. Substantive change is to conform section to standard of <u>first</u> election of officers not to involve a primary election. See 7-2-4106.	X
41.	7-3-173. Establishment of study commissions.	Counties and cities – study of alternative form. Concerns election on whether to have a study commission to consider altering form of government. Cleanup to move date and procedure for election to 7-3-174.	No substantive changes.
42.	7-3-174. Election <u>dates and</u> procedures.	Counties and cities – study of alternative form. Concerns election procedures on whether to have a study commission examine an alternative form of local government and on the election of study committee members. Specifies date on question of forming study commission is same as primary, date for election of commission members is same as general, as is specified in 7-3-175. Specifies election must be conducted in accordance with Title 13.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
43.	7-3-175. Election on question of establishing study commission <u>Ballot form and question.</u>	Counties and cities – study of alternative form. Concerns election on whether to have a study commission to consider changing form or local government. Strikes language concerning a “special election” for study commission members. This clarifies the use of the term “special” and conforms to current law in 7-2-176.	No substantive changes.
44.	7-3-176. Election of commission members – <u>appointments.</u>	Counties and cities – study of alternative form. Concerns election of study commission members. Requires candidates to file at least 85 days before the election instead of 75 days before to conform the section to the standard changes in the primary election laws. Internal reference to [section 7].	X
45.	7-3-178. Term of office -- vacancies -- compensation.	Counties and cities – study of alternative form. Concerns terms for study commission members. Strikes a subsection that seems to conflict with the previous subsection.	No substantive changes.
46.	7-3-186. Study commission timetable.	Counties and cities – study of alternative form. Clean up of reference to a special election.	No substantive changes.
47.	7-3-187. Final report.	Counties and cities – study of alternative form. Clean up of reference to when election is held if study commission final report recommends a change in the form of government.	No substantive changes.
48.	7-3-192. Election on recommendation.	Counties and cities – study of alternative form. Clean up of when election on study commission recommendations must be held.	No substantive changes.
49.	7-3-1204. Petition for city-county...	City-County Consolidation – Option 2 Update internal reference.	No substantive change
50.	7-3-1205. Certification of petition -- board action -- <u>election.</u>	City-County Consolidation – Option 2 Concerns election on consolidation. Inserts reference to Sections 6 through 10.	No substantive changes.
51.	7-3-1206. Form of ballot.	City-County Consolidation – Option 2 Concerns City-County consolidation election ballot. Updates language concerning printed ballots.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
52.	7-3-1208. Election of commission upon favorable vote.	City-County Consolidation – Option 2 Concerns first election of commissioners for new consolidated city-county government. Inserts reference to Sections 6 through 10 and candidate filing deadline in [section 7]. Standardizes candidate filing deadline as 85 days before election. Current law simply references “general elections”.	X
53.	7-3-1209. Resolution declaring creation of consolidated government.	City-County Consolidation – Option 2 Deletes reference to special election. Definition of “special election” has changed.	No substantive changes.
54.	7-3-1216. Term of office of commission members.	City-County Consolidation – Option 2 Deletes reference to special election. Definition of “special election” has changed.	No substantive changes.
55.	7-3-1218. Meetings of commission.	City-County Consolidation – Option 2 Deletes reference to special election. Definition of “special election” has changed.	No substantive changes.
56.	7-3-1219. Organization and officers of commission.	City-County Consolidation – Option 2 Deletes reference to special election. Definition of “special election” has changed.	No substantive changes.
57.	7-3-1229. Submission of initiative measure to electors.	City-County Consolidated Government Concerns submitting question to voters. Strikes reference to election on primary or general election. Inserts internal reference to new standard sections 6 through 10.	No substantive changes.
58.	7-3-1231. Action on referendum petition.	City-County Consolidated Government Concerns submitting question to voters. Strikes reference to election on primary or general election. Inserts internal reference to new standard sections 6 through 10.	No substantive changes.
59.	7-3-1254. Nonpartisan nature of government.	City-County Consolidated Government Strikes improper reference to “primary or” election laws.	No substantive changes.
60.	7-3-1271. General provisions related to elections.	City-County Consolidated Government Strikes improper reference to “general” election laws.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
61.	7-3-4208. Petition to organize under commission form -- election required.	Municipal Commission Government. Inserts reference to new standard sections 6 through 10. Deletes reference to special election. Definition of "special election" has changed.	No substantive changes.
62.	7-3-4210. Form of ballot.	Municipal Commission Government. Updates language about printed ballots. Deletes reference to special election. Definition of "special election" has changed.	No substantive changes.
63.	7-3-4212. Effect of vote on question.	Municipal Commission Government. Deletes reference to special election. Definition of "special election" has changed.	No substantive changes.
64.	7-3-4214. First term of office.	Municipal Commission Government. Deletes reference to special election. Definition of "special election" has changed. Clarifies that term begins after election results are certified. Replaces reference to "regular" election with correct reference to "general" election.	No substantive changes.
65.	7-3-4222. Adoption of ordinances.	Municipal Commission Government. Inserts reference to new standard sections 6 through 10. Deletes reference to special election. Definition of "special election" has changed.	No substantive changes.
66.	7-3-4223. Granting of franchises.	Municipal Commission Government. Inserts reference to new standard sections 6 through 10. Deletes reference to special election. Definition of "special election" has changed.	No substantive changes.
67.	7-3-4305. Petition to organize under commission-manager form -- election required.	Municipal Commission-Manager Government. Inserts reference to new standard sections 6 through 10 and specific reference to [section 9] concerning election date. Deletes reference to special election. Definition of "special election" has changed.	No substantive changes.
68.	7-3-4307. Form of ballot.	Municipal Commission-Manager Government. Updates language about printed ballots. Deletes reference to special election. Definition of "special election" has changed.	No substantive changes.
69.	7-3-4309. Effect of vote on question of organization.	Municipal Commission-Manager Government. Deletes reference to special election. Definition of "special election" has changed.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
70.	7-3-4310. Special election <u>Election for municipal officers.</u>	Municipal Commission-Manager Government. Concerns first election of officers after reorganization. Strikes reference to special election. Definition of “special election” has changed. Inserts internal reference to standard sections 6 through 10. Clarifies that a primary election is not held. Strikes redundant and unnecessary language. Inserts language on when term expires for first commission members and specifies that a primary is held for subsequent elections of commissioner members because current law is not explicit. Changes public notice requirements to conform with standard section 13-1-108 but still retains requirement to post notice in 6 public places.	X
71.	7-3-4311. Procedure for multimunicipality organization -- <u>election – elector qualifications.</u>	Municipal Commission-Manager Government. Multimunicipality organization. Changes election notice requirements to conform with notice requirements in Section 13-1-108 but still retains requirement to post notice in 6 public places. Strikes reference to special election. Definition of “special election” has changed. Inserts internal reference to standard sections 6 through 10.	X
72.	7-3-4316. Term of office for commissioners.	Municipal Commission-Manager Government. Single municipal districts. Strikes reference to special election. Definition of “special election” has changed.	No substantive changes.
73.	7-3-4319. Designation of mayor.	Municipal Commission-Manager Government. Single municipal districts. Strikes reference to “regular” election, inserts correct term “general” election.	No substantive changes.
74.	7-3-4322. Meetings of commission.	Municipal Commission-Manager Government. Single municipal districts. Strikes reference to “regular” election, inserts correct term “general” election.	No substantive changes.
75.	7-3-4462. Office of city judge.	Municipal Commission-Manager Government. Strikes reference to “regularly scheduled” election. Inserts appropriate reference to “general” election.	No substantive changes.
76.	7-5-131. Right of initiative...	Local Government Ordinances etc. Update internal reference.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
77.	7-5-132. Procedure for initiative of referendum election.	Local Government Ordinances etc. This section overlaps with 7-5-136, about submission of ordinances to electors. 7-5-136 will be repealed and its substantive portions incorporated into this section. Inserts reference to Sections 6 through 10.	No substantive changes.
78.	7-5-4321. Grant of exclusive franchise -- election required.	Municipal contracts and franchises. Strikes "regular or primary" election. Inserts appropriate reference to "general or primary" and to election being conducted according to standard sections 6 through 10.	No substantive changes.
79.	7-5-4322. Election on question of granting franchise.	Municipal contracts and franchises. Strikes language moved elsewhere.	No substantive changes.
80.	7-6-1501. Resort tax -- definitions <u>Definitions.</u>	Resort districts. A resort tax part will be established through codification instructions. Consolidates current law definitions into this section to apply to entire part.	No substantive changes.
81.	7-6-1502. Resort community taxing authority -- specific delegation.	Resort districts. Inserts "qualified" before "elector" for proper usage of the defined term "qualified elector".	No substantive changes.
82.	7-6-1504. Resort tax -- election required - - procedure -- notice.	Resort districts. Inserts "qualified" before "elector" for proper usage of the defined term "qualified elector". Inserts reference to new special district election statutes in Title 13 - Sections 1 through 5. Strikes language on public notice and conforms public notice to standard provisions in 13-1-108.	X
83.	7-6-1505. Resort tax administration.	Resort districts. Inserts "qualified" before "elector" for proper usage of the defined term "qualified elector".	No substantive changes.
84.	7-6-1506. Use of resort community tax revenue -- bond issue -- pledge.	Resort districts. Strikes unneeded internal reference to the definition section, which will apply to all sections in the part.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
85.	7-6-1508. Establishment of a resort area -- taxing authority -- approval by <u>qualified</u> electorate.	Resort districts. Clean up. Also inserts “qualified” before “elector” for proper usage of the defined term “qualified elector”. No substantive changes.	No substantive changes.
86.	7-6-1509. Use of resort area tax.	Resort districts. Inserts “qualified” before “elector” for proper usage of the defined term “qualified elector”. No substantive changes.	No substantive changes.
87.	7-6-1532. Resort area district authorized.	Resort districts. Inserts “qualified” before “elector” for proper usage of the defined term “qualified elector”. Fixes internal reference because 7-6-1531 is repealed. No substantive changes.	No substantive changes.
88.	7-6-1533. Petition to create resort area district.	Resort districts. Clean up to ensure proper use of “qualified elector” as defined term. No substantive changes.	No substantive changes.
89.	7-6-1535. Resort area district -- hearing on petition.	Resort districts. Fixes internal reference because 7-6-1531 is repealed. No substantive changes.	No substantive changes.
90.	7-6-1536. Resort area district -- election required -- notice.	Resort districts. Fixes internal reference because 7-6-1531 is repealed. Inserts reference to Sections 1 through 5, strikes redundant or conflicting language. Substantive change is to change election date to regular school election day instead of with primary or general election.	X
91.	7-6-1541. General powers of resort area district.	Resort districts. Strikes internal references not needed because “resort area district” is defined for the part. and replaces with correct internal reference. Inserts reference to Sections 1 through 6. Ensures proper usage of “qualified elector” defined term. Strikes reference to repealed section, 7-6-1531.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
92.	7-6-1542. Resort area district board powers related to administration and expenditure of resort tax revenue -- authorization to issue bonds -- <u>election --</u> restrictions.	Resort districts. Cleanup. Inserts reference to Sections 1 through 5 for election concerning bond issue.	No substantive changes.
93.	7-6-1543. Resort area district to be governed by board -- composition -- qualifications -- term of office.	Resort districts. Clean up reference to “regular” election.	No substantive changes.
94.	7-6-1544. Resort area district board -- election -- term.	Resort districts. Insert references to appropriate new sections on special district elections within Sections 1 through 6. . Strikes redundant language on terms. Substantive change is that change candidate filing deadlines will conform to standard sections and be between 145 days to 85 days before election. Also, election must be on regular school election day and not with a primary or general.	X
95.	7-6-1546. Resort area district board -- vacancy.	Resort districts. Inserts reference so election for board members is conducted as provided in Sections 1 through 5; clarifies that an appointed member must stand for election as soon as possible.	No substantive changes.
96.	7-6-1547. Resort area district board -- meetings.	Resort districts. Update terminology “board <u>of directors</u> ” for consistency	No substantive changes
97.	7-6-1548. Referendum to dissolve resort area district.	Resort districts. Inserts “qualified” before elector to use defined term. States referendum must be conducted in accordance with Sections 1 through 5.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
98.	7-6-1551. Annexation of property into a resort area district -- <u>election</u>	Resort districts. States election on annexation must be held in accordance with New Sections 1 through 5. Strikes language about qualifications of voters because it will use the defined term of "qualified elector". Substantive change is from the election having to be held on the primary or general election day to being held on the school election day.	X
99.	7-7-2223. Election required for issuance of certain bonds.	County bonds. Requires the election on issuance of certain county bonds be conducted in accordance with standard sections 6 through 10.	No substantive changes.
100.	7-7-2227. Examination of petition – resolution calling for election.	County bonds. Clean up to conform with previous changes.	No substantive changes.
101.	7-7-2229. Notice of election.	County bonds. Substantive change - strikes language that overlaps with 13-1-108 and standardizes notice provisions. Strikes requirement of providing "separate notice" of a bond election. Retains requirements that notice include the amount and purpose of the bond and other details.	X
102.	7-7-2237. Percentage of electors required to authorize bond issue.	County bonds. Strikes election language that is redundant, inserts reference back to 7-7-2223, which has the election provisions.	No substantive changes.
103.	7-7-2404. Notice of election.	County loans. Clarifies that election notice will be done in accordance with 13-1-108.	No substantive changes.
104.	7-7-2405. Form of ballots.	County loans. Updates language.	No substantive changes.
105.	7-7-2406. Conduct of election and canvass of results.	County loans. Updates language. Reference inserted to New Sections 6 through 10.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
106.	7-7-4226. Resolution to submit question of issuing bonds to voters.	Municipal bonds. Requires election to be conducted in accordance with Sections 5 through 10. Substantive change is that the election is not restricted to next primary or general election day. Governing body can decide when to hold election.	X
107.	7-7-4227. Notice of election.	Municipal bonds. Ensures notice of election is as provided in 13-1-108. Strikes requirement for "separate notice". Strikes discretionary language about posting notice in each precinct at least 10 days prior to election, which is unnecessary language because nothing would prohibit this.	X
108.	7-7-4235. Percentage of electors required to authorize issuing of bonds.	Municipal bonds. Strikes redundant language about conduct of election which is already in 7-7-4226.	No substantive changes.
109.	7-7-4426. Authorization for undertaking and issuance of bonds.	Municipal revenue bonds. Election must be conducted in accordance with [sections 6 through 10]. Substantive change is that a mail ballot election is not required and election may be held at any time, not necessarily on same day as primary or general election.	X
110.	7-8-4201. Disposal or lease of municipal property -- <u>election</u> .	Municipal property. Election must be held in accordance with [sections 6 through 10]. Substantive change is that election may be held at any time instead of only on same day as primary or general election.	X
111.	7-10-101. Regional resource authorities -- purpose = <u>definition of qualified elector</u> .	Regional resource authorities. Properly use defined term of "qualified elector".	No substantive changes.
112.	7-10-102. <u>Authorization Petition</u> to create or expand regional resource authorities.	Regional resource authorities. Properly use defined term of "qualified elector".	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
113.	7-10-104. Regional resource authority or expansion -- election required -- notice.	Regional resource authorities. Inserts reference back to New Sections 1 through 5. Substantive change is to require election to be held on same day as school election rather than on same day as a primary or general election.	X
114.	7-10-110. Governing body of regional resource authority -- <u>initial appointment -- subsequent election.</u>	Regional resource authorities. Inserts reference back to New Sections 1 through 5. Substantive change is that election after initial appointment must be held on same day as school election. Current statute does not specify the election day.	X
115.	7-11-1011. Referendum -- <u>conduct of election on creating special district.</u>	Special districts. Statute applies to all “special districts” as listed in 7-11-1002. Requires elections to be in accordance with New Sections 1 through 5]. Substantive change is that the election must be held on school election day rather than on same day as primary or general election or as a special mail ballot election.	X
116.	7-11-1012. Certificate of establishment.	Special districts. Simple change to internal reference needed due to amendment in 7-11-1011.	No substantive changes.
117.	7-12-4243. Procedure to create and maintain supplemental revolving fund -- <u>election required -- qualified electors defined.</u>	Business improvement districts. Substantive change is to require the election to be held on same day as school election rather than on primary or general election day.	X
118.	7-13-2201. Definitions.	County water and/or sewer districts. Clean up and consolidate current law definitions.	No substantive changes.
119.	7-13-2204. Petition to create water and/or sewer district.	County water and/or sewer districts. Properly use defined term of “qualified elector”.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
120.	7-13-2208. Decision on petition -- election required -- exception.	County water and/or sewer districts. Requires election on incorporation of county water and/or sewer district be held in accordance with [section 6 through 10]. Substantive change is the election must be on school election day rather than on primary or general election day or on a special day. May still be a mail ballot on school election day.	X
121.	7-13-2210. Notice of election.	County water and/or sewer districts. Clarifies current language and inserts reference to standard public notice section 13-1-108.	No substantive changes.
122.	7-13-2211. Conduct of election on <u>Ballot</u> question of <u>for</u> creating district.	County water and/or sewer districts. Revises section to focus on ballot form, strikes redundant language.	No substantive changes.
123.	7-13-2214. Order creating district upon sufficient favorable vote.	County water and/or sewer districts. Strikes redundant language about elector qualifications.	No substantive changes.
124.	7-13-2217. General powers of water and/or sewer district.	County water and/or sewer districts. Strikes unnecessary language because “board of directors” will be a defined term. See changes to 7-13-2201.	No substantive changes.
125.	7-13-2222. Applicability of general election laws.	County water and/or sewer districts. Strikes redundant language about qualified electors. Inserts reference to new [sections 1 through 5] and provides that all county water and/or sewer district elections will be in accordance with these standard sections.	No substantive changes.
126.	7-13-2225. Combination of elections.	County water and/or sewer districts. Strikes redundant language and uses correct internal references.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
127.	7-13-2231. District to be governed by board of directors.	County water and/or sewer districts. Strikes redundant language and clarifies current law provisions. Requires election of board to be in accordance with standard provisions in new [sections 1 through 5]. Board member elections would have to be held on the same day as a school election , but could still be conducted by mail. Current law provides that the election is on the same day as a primary or general election, or conducted by mail.	X
128.	7-13-2234. Term of office.	County water and/or sewer districts. Strikes redundant and outdated language.	No substantive changes.
129.	7-13-2241. Filing of petition of nomination.	County water and/or sewer districts. Conforms candidate filing with standard sections. Substantive change is time period for filing a petition of nomination will be 145 days to 85 days before the election rather than 135 days to 75 days before the election. Also strikes requirement for nominating petitions signed by other electors in order to file.	X
130.	7-13-2258. Effect of failure to qualify for office.	County water and/or sewer districts. Update internal reference.	No substantive changes.
131.	7-13-2261. Recall of officers.	County water and/or sewer districts. Use defined term of "qualified elector".	No substantive changes.
132.	7-13-2262. Insufficient candidates -- vacancies on board of directors -- appointment of entire board.	County water and/or sewer districts. Strikes language that is now contained in the standard new [section 7] and inserts internal references to [section 7] concerning canceling election for insufficient candidates and election by acclamation. Strikes language about nominating petitions. Nominating petitions signed by electors will no longer be required.	X
133.	7-13-2271. Organization of board of directors.	County water and/or sewer districts. Updates language concerning first meeting of a new board and strikes "first general" in front of "election" because th election will be held on school election day, not at a general election.	No substantive changes.
134.	7-13-2272. Duties of board president.	County water and/or sewer districts. Use defined term of "qualified elector".	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
135.	7-13-2273. Compensation of members of board -- approval by voters of district.	County water and/or sewer districts. Use defined term of “qualified elector”. Strikes redundant language about conduct of election, which is not needed because of consolidation of provisions in 7-13-2222. Substantive revisions will require adherence to standard public notice provision on elections in 13-1-108 if a full election is held on board member salaries instead of an election at the annual meeting.	X
136.	7-13-2276. Right of initiative and referendum.	County water and/or sewer districts. Use defined term of “qualified elector”.	No substantive changes.
137.	7-13-2321. Procedure to incur bonded indebtedness.	County water and/or sewer districts. Use defined term of “qualified elector”.	No substantive changes.
138.	7-13-2323. Election on question of incurring bonded indebtedness.	County water and/or sewer districts. Requires election on question of bonded indebtedness to be held in accordance with standard new [Section 7]. The substantive change is that the election may not be held in conjunction with a primary or general, but must be held on a special day or on the same day as a school election.	X
139.	7-13-2324. Notice of election on incurring bonded indebtedness.	County water and/or sewer districts. Clarifies current law on public notice of election on bonded indebtedness by reorganizing the subsections and eliminating the word “published” because notice can also be broadcast.	No substantive changes.
140.	7-13-2328. Sufficient vote required to issue bonds.	County water and/or sewer districts. Strikes language that is unnecessary because “qualified elector” will be defined term.	No substantive changes.
141.	7-13-2333. Issuance of revenue or special assessment bonds without election.	County water and/or sewer districts. Use defined term of “qualified elector”.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
142.	7-13-2341. Addition of land to district -- election required	<p>County water and/or sewer districts. Strikes language about conduct of election that is not needed because of 7-13-2222 and defined term of “qualified elector”. Change is that the election on adding land to the district would be held on the same day as a school trustee election, not with a primary or general and not on a special day.</p>	X
143.	7-13-2342. Consolidation of county water and/or sewer districts -- <u>election required.</u>	<p>County water and/or sewer districts. Language about conduct of election not needed because of 7-13-2222 and defined term of “qualified elector”. Substantive change is to conform with new requirement for elections to be held no earlier than 85 days after the call of the election, so strikes ability for election to be called within 70 days of the election. And, election would be on school election day or on a special day rather than on a primary or general election day.</p>	X
144.	7-13-2352. Dissolution of district by special election.	<p>County water and/or sewer districts. Deletes reference to “special” election because of redefinition of “special election” in 13-1-101. Language about conduct of election not needed because of 7-13-2222.</p>	No substantive changes.
145.	7-13-4204. Rental charges for use of sewer system -- election required.	<p>Public sewer systems. Qualified electors is not defined for this part so need to clarify the language about who is eligible to vote. Inserts reference to conduct of election being in accordance with [sections 1 through 5]. Substantive change is that election must be held on school election day or on a special day rather than on primary or general election day.</p>	X
146.	7-13-4511. Sufficient protest to require referendum.	<p>Municipal sewage and/or water systems. Section allows owners to petition for an election. Use “elector” to mean person qualified to vote and “voter” as a person who actually votes. Insert reference to election being conducted in accordance with [sections 1 through 5]. Substantive change is that election must be held on school election day or on a special day rather than on primary or general election day.</p>	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
147.	7-13-4512. Referendum.	Municipal sewage and/or water systems. Section allows commissioners to pass a resolution calling for an election. Use “elector” to mean person qualified to vote and “voter” as a person who actually votes. Insert reference to election being conducted in accordance with [sections 1 through 5]. Substantive change is that election must be held on school election day or on a special day rather than on primary or general election day.	X
148.	7-13-4535. Referendum to abolish local water quality district or joint local water quality district -- termination procedures.	Municipal sewage and/or water systems. Section allows owners to petition for an election. Use “elector” to mean person qualified to vote and “voter” as a person who actually votes. Insert reference to election being conducted in accordance with [sections 1 through 5]. Substantive change is that election must be held on school election day.	X
149.	7-14-210. Election on question of creating urban transportation district or addition to a district.	Urban transportation districts. Insert reference to election being conducted in accordance with [sections 1 through 5]. Substantive change is that election must be held on school election day.	X
150.	7-14-211. Conduct of election on question of creating district <u>Ballot form.</u>	Urban transportation districts. Strikes redundant language on conduct of election. Clean up on ballot form language.	No substantive changes.
151.	7-14-212. District to be governed by transportation board -- <u>election of board.</u>	Urban transportation districts. Inserts reference to [sections 1 through 5]. Substantive change is that election must be held on school election day. Strikes language that implies a primary election is required.	X
152.	7-14-214. Election of members of transportation board.	Urban transportation districts. Strikes requirement that a person must collect signatures from 25 qualified electors in order to file as a candidate.	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
153.	7-14-1106. Election of local port authority commissioners.	Port authorities. Inserts reference to [sections 1 through 5]. Substantive change is that election must be held on school election day and candidate filing petitions will have to be 145 days to 85 days before instead of 75 days before. Strikes requirement that a person collect signatures from 25 qualified electors in order to file as a candidate.	X
154.	7-14-1134. Method of funding deficiency -- <u>election required.</u>	Port authorities. Strikes language that about conduct of election that is covered by amendments to 15-10-425, which is already referenced in the section. The combined effect is to require the election to be held on school election day or as a special election rather than with a primary or general election.	X
155.	7-14-1633. Election required to impose mill levy.	Railway authorities. Inserts reference to [sections 1 through 5]. Replaces generic reference to general election laws. Change is to require the election to be held on school election day or as a special election rather than with a primary or general election.	X
156.	7-14-2507. Qualifications to vote on mill levy question of additional mill levy.	County roads and bridges. Clean up language about who is eligible to vote in election on mill levy for county roads and bridges. Fixes internal reference. Substantive change is to strike requirement for proof of registration by 20 days prior to the election.	X
157.	7-14-4512. Referendum on parking meters prior to enacting ordinance.	Municipal parking. Inserts reference to [sections 6 through 10] on local government elections. Substantive change is that, unless the election concerns an ordinance on funding of parking meters, an election on a parking meter ordinance must be held on same day as a primary or general election or as a special election. This is not a special district election.	X
158.	7-14-4642. Election required to issue revenue bonds.	Parking Commissions. Inserts reference to [sections 6 through 10] on local government elections. Substantive change is to allow the election to be called for a special day rather than having to be held on a primary or general election day, because it is a funding election. This is not a special district election.	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
159.	7-16-2102. Authorization for tax levy for parks and certain cultural, social, and recreational facilities.	Counties – culture, social services and recreation. Concerns a mill levy election for county fairs, cultural activities and recreation. Strikes references to general election. Strikes references to general election. Election would be conducted as provided in 15-10-425 (see Section 178). Substantive change is that the election could be held as a special election, or an election held in conjunction with the primary or general, not just during a general election.	X
160.	7-16-2109. Single assessment for county fair activities, county parks, and certain cultural, social, and recreational facilities -- restriction.	Counties – culture, social services and recreation. Concerns a mill levy election for a <u>single assessment</u> of a tax for county fairs, cultural activities and recreation. Strikes references to general election. Election would be conducted as provided in 15-10-425. Substantive change is that the election could be held as a special election, or an election held in conjunction with the primary or general, not just during a general election.	X
161.	7-33-2106. Details relating to board of trustees of fire district -- <u>election -- qualified electors.</u>	Rural fire districts. Concerns election of board of trustees. Inserts reference to [sections 1 through 5]. Reorganizes section for clarity. Strikes language about canceling election because it is covered in [section 2]. Substantive changes are: candidate filing changed from 75 days before the election to standard in [section 2], which is between 145 days to 85 days before the election, requires election to be held on school election day rather than with a primary or general, strikes requirement for signatures from 5 qualified electors to file as a candidate.	X
162.	7-34-2110. Resolution calling for election.	Hospital districts. Concerns election to create a hospital districts. Conforms section to new [sections 1 through 5]. Substantive change is to require election on whether to create a hospital district to be held on school election day rather than on primary or general election day.	X
163.	7-34-2112. Conduct of election on question of creating district Ballot form.	Hospital districts. Concerns the ballot for the election to create a hospital district. Strikes redundant language so section applies only to ballot form for election to create a hospital district.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
164.	7-34-2117. Procedure for conduct of election for trustees -- appointment of trustees.	<p>Hospital districts.</p> <p>Concerns trustee election. Inserts reference to new [sections 1 through 5]. Substantive change of candidate filing deadline from 75 days before the election to from 145 days to 85 days before the election. Requires election to be held on school election day rather than on a primary or general election day. Strikes requirement for signatures from 5 qualified electors to file as a candidate.</p>	X
165.	13-1-101. Definitions.	<p>Title 13. Defined terms.</p> <p>Rewrites definitions for “federal election”, “general” or “regular election”, “primary election”, and “special elections”. Creates definitions for “regular school election” and “special purpose district”. Strikes unclear language that is substantive and not appropriate for a definition section, so that the substantive provisions can be placed in the appropriate statutes. Substantive change from current law is that “special election” will now be clarified as an election held on a special day and not in conjunction with a primary, general, or school election. Under current law, a special election can be held on a primary or general election day, which is confusing when the election involves special purpose district officers who are not elected through a primary and general election process. Also, a “special purpose district” definition encompasses all types of special districts, and not just those “special districts” as defined 7-11-1002, which relate to certain aspects of governance structure, but does not suffice for the purposes of elections.</p>	X
166.	13-1-104. Times for holding general elections.	<p>Title 13 – General election.</p> <p>Revises language for clarity that a general election is a day on which elections are held to fill offices for which there is normally a primary election first. The timetables for holding general elections are not changed. Most of the inserted language is taken from the current law definition of “general election”.</p>	No substantive changes.
167.	13-1-106. Time of opening and closing of polls for all elections -- exceptions.	<p>Title 13 - Polling hours.</p> <p>Internal reference clean up.</p>	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
168.	13-1-107. Times for holding primary elections -- cost of municipal election.	Title 13 – Primary elections. Language clean up to clarify when primary elections are held and that a municipality always pays for its elections. There is no change is the primary election timetables.	No substantive changes.
169.	13-1-108. Notice of special political subdivision elections.	Title 13 – Political subdivision and school elections. Concerns public notice provisions. Substantive change. Broadens application of this section on election notice to encompass and update current practices, which results in expansion of time frame for notice of school district elections from between 30 and 20 days to between 40 and 10 days (see 20-20-204). However, special language concerning what must be included in the notice for certain elections will not be stricken in the specific statutes, so those provisions will not change.	X
170.	13-1-301. Election administrator.	Title 13 – Election administration. Strikes internal references that are no longer needed. Strikes redundant language.	No substantive changes.
171.	13-1-401. <u>School district and political subdivision election cooperation</u>	Title 13 – Election administration. Revises and updates language for clarity about cooperation between political subdivisions and school districts when conducting a polling place election on the same day. However, “may” cooperate was changed to “shall” cooperate.	X
172.	13-2-304. Late registration -- late changes -- nonapplicability for school elections.	Title 13 – Voter registration. Substantive change is that late voter registration would apply to school elections run by school districts. Current law is that late voter registration applies only to school elections run by county election administrators.	X
173.	13-3-202. Definitions.	Title 13 – Accessibility of polling places. Updates internal references that changed due to other changes in the bill.	No substantive changes.
174.	13-10-201. Declaration for nomination -- term limitations.	Title 13 – Primary elections – candidate filing. Substantive change is that candidate filing deadlines will be 145 to 85 days before the election irrespective of whether it is a federal election year. Current law provides a 135 to 75 day filing period for nonfederal election years.	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
175.	13-10-208. Certificate of primary ballot -- preparing ballot.	<p>Title 13 – Primary elections - ballot certification.</p> <p>Substantive change is to establish one deadline for certification of names for the ballot – 10 days after the candidate filing deadline (or 75 days before the election). This simplifies associated timelines, such as for COPP’s notification of the secretary of state and election administrators about whether a candidate’s name may not appear on the ballot due to failure to comply with campaign reporting laws, and the deadlines for candidate withdrawal and write-in candidacy. Under current law, there is an 85- to 75-day window for the secretary of state’s certification and a 67- to 62-day window for county election administrator. Under the changes, certification of names by the Sec. of State and by county election administrators would take place on the same day.</p>	X
176.	13-10-209. Arrangement and preparing of primary ballots.	<p>Title 13 – Primary elections - ballot preparation.</p> <p>Strikes internal reference, updates language.</p>	No substantive changes.
177.	13-10-211. Declaration of intent for write-in candidates.	<p>Title 13 – Primary and General elections – write-in candidate deadline.</p> <p>Strikes language concerning write-in candidate deadline for mail ballot school elections that will be revised and more appropriately inserted into 20-3-305.</p>	No substantive changes.
178.	13-10-325. Withdrawal from nomination.	<p>Title 13 – Primary and General elections - candidate withdrawal deadline.</p> <p>Simplifies language and coordinates withdrawal deadline with standard candidate filing deadline. Strikes language no longer required. Substantive change is that the candidate withdrawal deadline will be the same for primary and general elections. Currently it is 75 days before a primary and 85 days before the general, with certain exceptions.</p>	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
179.	13-10-326. Vacancy prior to primary election.	Title 13 – Primary – vacancy prior to primary. Substantive change to coordinate vacancy provisions prior to primary election with the now standardized 85-day candidate filing deadline. Strikes the reference to 75 days before a primary in odd years and the reference to 85 days before a primary in even years. Inserts language for contingency of what happens if the deadline for certifying a candidate’s name for the ballot has passed.	X
180.	13-10-327. Vacancy after primary...	Title 13 – Primary – vacancy after primary. Inserts needed internal reference and language.	No substantive changes.
181.	13-10-405. Submission and verification of petition.	Title 13 – Presidential preference primary. Updates internal references.	No substantive changes.
182.	13-12-201. Secretary of state to certify ballot.	Title 13 – General election ballot. Substantive change. Subsection (1) concerning Sec. of State certification of names for ballot would apply to all general elections with respect to candidates that file with the Sec. of State, not just to federal general elections.	X
183.	13-13-205. When ballots to be available.	Title 13 – Primary and General elections – absentee ballots. Substantive change is that for elections other than special purpose or school elections, the deadline for absentee ballot availability will be 25 days prior rather than 30 days prior to the election to all election administrators five more days to have the ballots printed. Availability of federal election ballots for uniformed and overseas electors is not changed. (must be sent no later than 45 days prior) Other changes are just cleanup.	X
184.	13-14-112. Declarations for nomination -- fee -- filing.	Title 13 – Nonpartisan elections. Updates internal references.	No substantive changes.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
185.	13-14-113. Filing for offices without salary or fees.	Title 13 – Nonpartisan elections. Updates internal references.	No substantive changes.
186.	13-14-115. Preparation and distribution of nonpartisan primary ballots -- determination on conducting primary.	Title 13 – Nonpartisan elections. Updates internal reference.	No substantive changes.
187.	13-15-206. Counting votes -- uniformity -- rulemaking -- definitions.	Title 13 – Canvassing, returns, and certificates. Updates internal reference.	No substantive changes.
188.	13-19-205. Written plan for conduct of election -- amendments -- approval procedures.	Title 13 – Mail ballot elections Clarifies that a written plan for mail ballot elections must be submitted for each mail ballot election, rather than just a blanket or general plan. Requires that if a mail ballot election is called after the written plan has been submitted to the SOS, the election administrator must submit and amended plan.	
189.	13-19-207. When materials to be mailed.	Title 13 – Mail ballot elections Changes window for mailing ballots in a mail ballot election from between 25 and 15 days before the election to between 20 to 15 days before the election. Updates internal reference.	X
190.	13-35-107. Voiding election.	Title 13 – Campaign practices and criminal provisions Substantive change. An election after an election has been voided may not be called less than 85 days before the election date, rather than 75 days before. This change coordinates the section with previous changes to standardize deadlines.	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
191.	13-37-126. Names not to appear on ballot.	<p>Title 13 – Control of campaign practices. This section provides that a candidate’s name may not appear on the ballot if the candidate has failed to comply with reporting provisions. Substantive change is to standardize when Commissioner of Political Practices must notify the election administrator if a candidate has failed to file a required report. The deadline is standardized as the deadline for certifying names for the ballot. The COPP will have only one deadline for notifying the secretary of state and election administrators regarding primary elections. But, <u>different deadlines</u> for primary and general election are retained.</p>	X
192.	13-37-206. Exception for certain school districts and certain special districts.	<p>Title 13 – Control of campaign practices. Inserts “special purpose district” into list of entities not subject to campaign practice requirements and reporting.</p>	No substantive change.
193.	15-10-425. Mill levy election.	<p>Property tax levies. Conforms how and when a property tax levy elections may be conducted with the new standard sections and inserts appropriate internal references. The substantive change is that special purpose district mill levy elections may not be held on primary or general election day but may be held on school election day, but may still be held on a special day.</p>	X
194.	15-65-101. Definitions.	<p>Lodging tax. Updates internal reference.</p>	No substantive change.
195.	16-1-205. Local option.	<p>Beer and wine license. Updates internal reference.</p>	No substantive change.
196.	16-4-420. Restaurant beer and wine license.	<p>Beer and wine license. Updates internal reference.</p>	No substantive change.
197.	20-1-101. Definitions.	<p>School elections. Creates definitions for “regular school election” and “school election” and “special school election” to add clarity to school election statutes. Substantive change is that a special school election is an election on a day other than the primary, general, or regular school election.</p>	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
198.	20-3-202. Term, oath, and vacancy.	School elections – trustees. Substantive changes is to provide that the term of office for county superintendents starts at 12:01 a.m. on January 1 following election rather than on the first Monday in January.	X
199.	20-3-301. Election and term of office.	School elections – trustees. Coordinates section with the trustee election statute on the regular school election day.	No substantive change.
200.	20-3-305. Candidate qualification, nomination, and withdrawal.	School elections – trustees. Substantive change. Insert write-in candidate provision that was stricken from 13-10-211, and changes the deadline from 26 th day before the election to the 31 st day before the election in order to coordinate with the candidate withdrawal deadline and the ballot certification deadline. See changes in 20-20-401. Changes withdrawal deadline to day before ballot certification rather than 38 days before the election. Also, strikes language referencing need to have a nomination petition signed by certain number of electors in order to be a candidate.	X
201.	20-3-306. Conduct of election.	School elections – trustees. Updates internal reference.	No substantive change.
202.	20-3-307. Qualification and oath.	School elections – trustees. Inserts “school” to use defined term “regular school election”	No substantive change.
203.	20-3-313. Election by acclamation -- notice.	School elections – trustees. Update of internal references. Substantive change requiring trustees to give notice of a canceled election and election by acclamation no later than 30 days before the election rather than no later than 25 days before. (Compromise between county election administrators and OPI stakeholders who participated in the working group discussions.)	X
204.	20-3-321. Organization and officers.	School elections – trustees. Inserts “school” to use defined term “regular school election”	No substantive change.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
205.	20-3-337. Plan for creating single-member trustee districts -- petition election.	School elections – trustees. Strikes unneeded internal reference because “regular school election” is defined term.	No substantive change.
206.	20-3-338. Trustees elected by single-member district.	School elections – trustees. Inserts “school” to use defined term “regular school election” and strikes unneeded internal reference. Substantive change is to eliminate need for candidate in single-member district to get nomination petitions signed by electors.	X
207.	20-3-341. Number of trustee positions in elementary districts -- transition.	School elections – trustees. Inserts “regular” to use defined term “regular school election”.	No substantive change.
208.	20-9-426. Preparation and form of ballots for bond election.	School elections – bond election. Inserts “regular” to use defined term “regular school election”. Strikes requirement for a separate ballot.	X
209.	20-9-428. Determination of approval or rejection of proposition at bond election.	School elections – bond election. Clarifies terminology concerning primary, general, and mail ballot election.	No substantive change.
210.	20-9-471. Issuance of obligations -- authorization -- conditions.	School elections – bond election. Deletes inaccurate terminology concerning regular or special election. Strikes provision that ballot for bond election must be available for absentee voting 30 days before election. This will result in conformity with Title 13 provision that governs, and which provides absentee ballots must be available 20 days prior to the election.	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
211.	20-15-203. Call of community college district organization election -- proposition statement.	<p>Community college districts – organizational election. Conforms section to substantive change in 20-15-208 of having election conducted by a county election administrator rather than School District Clerks.</p> <p>Petitions for election are to be filed with county election administrator rather than Regents. But, Regents to be notified.</p> <p>Changes deadline for calling a community college district election to no less than 85 days before the election instead of 60 days before, for consistency with changes elsewhere, including candidate filing in other elections.</p> <p>Cost of initial election would be paid by the University System rather than by elementary school districts within the proposed community college district.</p>	X
212.	20-15-204. Election of trustees -- districts from which elected -- terms of office.	<p>Community college districts – trustee election. County election administrator to run community college election of trustees rather than school districts. See 20-15-208.</p>	X
213.	20-15-207. Notice of organization election.	<p>Community college districts – election notice. Conforms election notice requirements for community college elections to 13-1-108. County election administrator rather than Board of Regents to provide notice. (See substantive changes in 20-15-208 as amended in the bill.)</p>	X
214.	20-15-208. Conduct of election.	<p>Community college districts – conduct of elections. Scope of section expanded from an organizational election to all community college district elections. Requires that community college elections are conducted by the county election administrator. Requires the elections be conducted in accordance with new [sections 1 through 5]. Board of Regents is still the governing body for the initial organizational election. Community college district trustees are governing body for all subsequent elections.</p>	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
215.	20-15-209. Determination of approval or disapproval of proposition -- subsequent procedures if approved.	<p>Community college districts – election result duties. Conforms the section to the substantive change in 20-15-208 the provides that the county election administrator rather than the Board of Regents shall conduct the election. Strikes references to election duties of a community college district coordinator or the Regents.</p>	X
216.	20-15-219. Qualifications for office of trustee -- nominating petitions.	<p>Community college districts – trustee candidates. Conforms candidate filing deadline to special district election deadline...change is from at least 40 days before the election to between 145 and 85 days before.</p> <p>Conforms section with change in 20-15-208 for the county election administrator to conduct the election, and therefore must receive the candidate filings.</p> <p>Strikes the requirement that a person must collect signatures from 5 qualified electors in order to file as a candidate.</p>	X
217.	20-15-221. Election of trustees after organization of community college district.	<p>Community college districts – subsequent trustee elections. Updates internal reference to regular school election day. Conforms section to changes concerning candidate filing deadlines, election notice provisions, and election being conducted by county election administrator rather than school districts. Deletes unnecessary language concerning voting systems and printed ballots, which will be a matter determined by the county election administrator under other applicable election laws.</p>	No substantive change.
218.	20-15-222. Results of election -- qualifying oath -- term of office.	<p>Community college districts. Inserts “school” to use defined term “regular school election”.</p>	No substantive change.
219.	20-15-224. Board of trustees -- organization, meetings, quorum, mileage, and seal.	<p>Community college districts. Inserts “school” to use defined term “regular school election”.</p>	No substantive change.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
220.	20-15-225. Powers and duties of trustees.	Community college districts. Conforms section with change in 20-15-208 that county election administrator conducts the elections, rather than the trustees. Trustees still responsible for calling an election.	No substantive change.
221.	20-15-231. Annexation of territory of districts to community college district.	Community college districts. Amendments clean up internal references and conform section with previous change of county election administrator running community college elections and elections being held on same day as regular school election.	No substantive change.
222.	20-15-241. Community college service regions -- creation.	Community college districts. Conform section to previous changes and insert appropriate internal reference. Substantive change is that service region election to be held on regular school election day rather than on general election day.	X
223.	20-20-105. Regular school election day and special school elections -- limitation -- exception.	School elections – date of regular election. Fixes subsection outlining and terminology concerning special elections.	No substantive change.
224.	20-20-106. Poll hours.	School elections – poll hours. Updates internal references.	No substantive change.
225.	20-20-201. Calling of school election.	School elections – call. Strikes unnecessary language. Changes deadline for calling a school election from at least 40 days before the election to 70 days before to conform with deadline to request a mail ballot election. See 13-19-202. Resolution must include whether trustees are requesting a mail ballot election. Changes deadline for transmitting resolution to the county election administrator.	X
226.	20-20-204. Election notice.	School elections – notice. Conforms notice of school elections to 13-1-108 but continues to require posting in public places. Effect of change is that school election notice from one notice to three notices. And changes time-frame to between 40 and 10 days before election (instead of between 30 and 20 days).	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
227.	20-20-311. Closure of Voter registration.	School elections – voter registration. Conforms section with change in Title 13 that requires all school elections, not just school elections conducted by county election administrators, to allow late voter registration.	X
228.	20-20-312. Listing of registered electors -- late registration	School elections – voter registration. Conforms section with changes made concerning late voter registration.	X
229.	20-20-401. Trustees' election duties -- ballot certification.	School elections – ballot certification. Changes deadline for certifying names of candidates on ballot from 25 before election to 30 days before.	X
230.	20-20-417. Request for county election administrator to conduct election.	School elections – county election administrator. Requires trustees to state in a resolution that requests the county election administrator to conduct a school election whether they are also requesting the election be conducted by mail ballot, which is consistent with the mail ballot election statute concerning governing body requesting mail ballot election. See 13-19-202. Inserts internal reference and inserts clean up language for clarity.	X
231.	22-1-304. Tax levy -- special library fund - - bonds.	Library district – tax levy. Changes the deadline for calling a library district levy election from 75 days before the election to 90 days before.	X
232.	22-1-703. Election on creation of district.	Library district – creation. Inserts reference to [sections 1 through 5] for conduct of election. Current law is not specific, references only Title 13.	No substantive change.
233.	22-1-706. Election of board of trustees -- compensation -- removal -- single-member trustee districts.	Library district – trustees. Inserts reference to [sections 1 through 5] for conduct of election. Changes candidate filing deadline to conform with 145 days and 85 days before the election. Strikes requirement for signatures from 5 qualified electors to file as a candidate.	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
234.	22-1-708. Public library district budget -- property tax levy.	Library district – tax levy. Internal reference clarification.	No substantive change.
235.	22-1-709. Election to change maximum property tax mill levy.	Library district – mill levy change. Inserts reference to [sections 1 through 5], so allows library district levy election to be held as on a school election day or special day, but may not be on a primary or general election day.	X
236.	22-1-710. Dissolution of public library district.	Library district – dissolution. Inserts reference to [sections 1 through 5], so requires dissolution election to be held on a school election day and disallows it from being held on a primary or general election day.	X
237.	76-5-1106. Requirements to change project boundaries -- <u>election.</u>	Water conservation and flood control – change boundaries. Inserts reference to [sections 1 through 5], so requires boundary change election to be held as on a school election day, so not on a primary or general election day.	X
238.	76-15-303. Election of supervisors.	Conservation districts – supervisor election. Fixes internal references. Language cleanup. Election must be held on regular school election day. Conforms candidate filing deadline to between 145 days and 85 days instead of within 30 days after the conservation district is organized. Strikes requirement for signatures from 10 qualified electors to file as a candidate. Eliminates language allowing a primary election for nomination.	X
239.	76-15-305. Transition to seven supervisors.	Conservation districts – transition to 7 supervisors. Concerns department’s appointment of two supervisors when transitioning from a 5-member to a 7-member board. Strikes outdated language that does not seem to conform with 76-15-312, which relates to staggered terms.	X
240.	76-15-311. Governing body of district.	Conservation districts – governing body of supervisors. Strikes redundant language on terms of office also contained in 76-15-312.	No substantive change.

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
241.	76-15-312. Term of office and vacancies.	Conservation districts – terms and vacancies. Conforms elections with [sections 1 through 5], so must be held on school election day. Revises terms of office for appointed supervisors Revisions also relate to repeal of 76-15-302 on nomination petitions (no nominating petitions or primary election) and repeal of 76-15-304 on elections to fill offices of two appointed supervisors, which provisions were consolidated into 76-15-305.	X
242.	76-15-506. Bonds authorized -- election.	Conservation districts - bonds. Clean up and conform section with [sections 1 through 5]. Election may no longer be on primary or general election day, but may be a special election as allowed in current law.	X
243.	76-15-605. Board decision.	Conservation districts – special project area creation. Conforms election on a project area to [sections 1 through 5]. Election must be on regular school election day.	X
244.	85-7-1702. Election or appointment of commissioners -- term of office.	Irrigation districts – commissioner election. Clean up and conform section with [sections 1 through 5]. Strikes language redundant with [sections 1 through 5]. Substantive change is that the election must be on regular school election day rather than on a primary or general election day. Strikes requirement for signatures from 5 qualified electors to file as a candidate.	X
245.	85-7-1712. Special elections Call for an election.	Irrigation districts – call. Conform section with [sections 1 through 5]. Must be called at least 85 days before election. Strike “special election” terminology that is no longer appropriate.	X
246.	85-7-1837. Limitation on irrigable acreage -- special election or petition.	Irrigation districts – special election call. Strike “special election” terminology that is no longer appropriate due to revised definition.	No substantive change.
247.	85-7-1974. Majority vote or petition necessary to contract with the state.	Irrigation districts – contract election. Conform section with [sections 1 through 5]. Substantive change is that the election must be held on regular school election day or as a special election, but may not be on a primary or general election day.	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
248.	85-7-2013. Majority vote and petition requirements.	Irrigation districts – bonds and contracts. Conform section with [sections 1 through 5]. Substantive change is that the election must be held on regular school election day or as a special election, but may not be on a primary or general election day.	X
249.	85-8-302. Election of commissioners -- regular term of office.	Drainage districts – commissioner election. Fix internal references; clean up and conform section with [sections 1 through 5]. Strikes language that is redundant to [sections 1 through 5]. Election must be held on regular school election day, not on a primary or general election day.	X
250.	85-8-306. Nominations.	Drainage districts – candidates for commissioner. Revises the section to be candidate filing rather than nomination. Filing must be between 145 days and 85 days. Strikes requirement for signatures from 5 qualified electors to file as a candidate. Eliminates ability to write in the name of a person who has not filed to be a write-in candidate.	X
251.	85-8-624. Assessments on improvements -- taxpayers' approval, limitations, and election procedures.	Drainage districts – taxes and assessments. Conforms section with [sections 1 through 5]. Election on assessment may be a special election or on school election day, but not on a primary or general election day. Updates internal reference to election notice under 13-1-108	X
252.	85-9-103. Definitions.	Conservancy districts - definitions. Strikes notice definition of notice being provided once each week for three consecutive weeks. This conflicts with 13-1-108 of three times within 40 to 10 days before an election.	X
253.	85-9-203. Hearing by department.	Conservancy districts - hearing. Clean up and update of internal references.	No substantive changes.
254.	85-9-206. Court hearing on petition - election -- limits on court jurisdiction.	Conservancy districts – organizing. Conforms section to [sections 1 through 5]. Election must be on regular school election day, which is change from primary, general or special election day.	X
255.	85-9-302. Dissolution election.	Conservancy districts - dissolution. Conforms section to [sections 1 through 5]. Election must be on regular school election day, which is change from primary, general or special election day.	X

Section No.	MCA Section - Catchline	Summary of Revisions	Substantive change in current law
256.	85-9-408. Contracts and agreements by directors.	Conservancy districts - contracts. Conforms section to [sections 1 through 5]. Election on assessment may be a special election or on school election day, but not on a primary or general election day.	X
257.	85-9-501. Merger of districts.	Conservancy districts – merger hearing. Conforms section to [sections 1 through 5]. Updates internal reference to hearing notice provisions.	No substantive changes.
258.	85-9-602. Notice of public budget hearing.	Conservancy districts – budget hearing. Updates internal reference concerning hearing notice.	No substantive changes.
259.	85-9-623. Issuance of bonds -- resolution and election.	Conservancy districts. Conforms section to [sections 1 through 5]. Updates internal reference to hearing notice provisions. Election may be a special election or on school election day, not on primary or general election day.	X

260.	Repealers.	ADMINISTRATIVE SECTIONS Repeals numerous sections that are no longer necessary.	n/a
261.	Codification instructions.	Provides instructions about where new sections are to be codified and about a section that needs to be renumbered.	n/a
262.	Delayed effective date.	Effective date set for day after November 2015 general election to avoid impact on 2015 primary and general elections, but apply the provisions to candidate filing deadlines that begin to occur in December 2015 for the May regular school election in 2016.	n/a

Appendix C

HJR 1 - Political Practices Study
Survey of Other States

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50-State Survey Results: Handling Campaign, Lobbying, and Ethics Complaints

HJR 1: Study of the Office of Commissioner of Political Practices

For the
State Administration and Veterans' Affairs Interim Committee

*Prepared by Sheri Scurr, Research Analyst
Montana Legislative Services Division*

DRAFT - December 10, 2012
REVISED - January 28, 2014

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



**Legislative
Services
Division**

50-State Survey Results

Handling Campaign, Lobbying, and Ethics Complaints

HJR 1: Study of the Office of Commissioner of Political Practices

For the State Administration and Veterans' Affairs Interim Committee
Prepared by Sheri Scurr, Research Analyst
Montana Legislative Services Division

DRAFT - December 10, 2013
REVISED - January 27, 2014
Revisions Noted in Addendum

Study purpose

The State Administration and Veterans' Affairs Interim Committee was tasked under HJR 1 passed by the 2013 Legislature 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." The study resolution also requested "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."

Survey

To fulfill the request to examine practices in other states, staff, under the guidance and direction of the Committee, developed a survey that was sent to legislative research contacts in the other 49 states. The survey was divided into three sections: campaigns, lobbying, and ethics. The questions in each section were aimed at determining:

- (1) whether the process used to initially handle the stated type of complaint was binding or non-binding;
- (2) the selection process for the commission or official that handled the complaint;
- (3) whether the state's statute required the commission or official to have certain qualifications; and
- (4) how the salary for the commission or official was set.

In 10 states, further questions were asked concerning caseload, staffing, and budget.

The survey was sent November 19, 2013, with instructions to complete as much of the survey as possible before December 1 with the understanding that more complete responses could be provided later. The survey was conducted using a web-based software program called SurveyMonkey.

Highlights of results

Sixteen states responded as of December 1. Most of the states responding did not complete the entire survey and many provided only basic contact information rather than substantive answers to the survey questions.

The attached tables present the survey findings. It is impossible to draw conclusions about what the majority of other states do because of the limited number of responses so far. However, below are some responses that stand out.

Commission or single official

- Idaho indicated that a single official rather than a commission, board, or panel, handles campaign complaints, which would make Idaho the only other state known so far that may be similar to Montana in this respect.

Campaign complaints

- Only 3 of the states (AK, CO, OH) hold a quasi-judicial hearing (i.e., a contested case hearing) for both campaign and lobbying complaints. Two of these states also use a quasi-judicial hearing for ethics complaints. The other 9 responding states use a process similar to Montana's that results in an administrative decision without a quasi-judicial hearing.
- Responses concerning whether the decision was binding were incomplete, but 3 states (AR, NE, OR) indicate their administrative decisions (i.e., made without a quasi-judicial hearing) are binding. Texas, however, is similar to Montana in that the administrative decision is not binding.
- New Hampshire indicated that they have no process for handling a campaign (or lobbying) complaint other than referring the complaint directly to the county attorney or prosecutor.

Lobbying complaints

- Two states (AK and MD) reported they hold a quasi-judicial hearing for lobbying complaints. The other eight respondents reported a decision is issued without a quasi-judicial hearing.
- Of the four states that responded to the question about whether the decision issued was binding, AR and OR reported their administrative decisions were binding, while NE and TX reported their administrative decisions were not binding.

Ethics complaints

- Six states, AR, CO, CT, OH, OR, and TX issue administrative decisions without a quasi-judicial hearing and the decision is binding in only three of those states (AR, CO, and OR).
- Two states (ME and NE) reported they have no ethics commission or administrative process for handling ethics complaints.

Appointments

- Only 4 states provided details on how the commission or board members are appointed.
- Of the reporting states, three states (MN, NE, and TX) provide that the governor makes the appointments. The other state, AR, allows officials other than the governor to make appointments.
 - In NE and TX, the appointments are from a list of nominees.
 - In MN, the appointments are not from a list of nominations, but must be confirmed by three-fifths of the members of the state senate and state house.

ADDENDUM

Revisions as of January 27, 2014 Based on New or Modified Survey Responses

On December 13, 2014, staff emailed a reminder to each state contact urging the states who had not yet responded or who had responded with incomplete surveys to complete and return the survey by January 1.

Four additional states responded: Hawaii, New Mexico, North Dakota, and South Carolina. One state, Oregon, updated its previous responses.

Staff was able to clarify responses from several states concerning the question of who set the salary of board or commission members handling complaints. The states had responded "other". The explanation of "other" is that board or commission members in these states are not paid a salary, but are entitled to reimbursement for expenses. These state are Arkansas, Hawaii, Oregon, South Carolina, and Texas.

All of the attached tables have been updated with the new or updated information.

To provide the Committee with some additional information on selected states, staff has attached at the end of this document actual statutory language from the following states:

1. Hawaii
2. Idaho
3. New Mexico
4. South Carolina
5. Utah
6. Wyoming

Tables Attached

Overview

Section 1 - Campaign practices complaints

Table 1.1 - Process used

Table 1.2 - How appointed

Table 1.3 - States with administrative decisions

Table 1.4 - States with quasi-judicial hearings

Table 1.5 - Qualifications of commissioner members

Table 1.6 - Caseload and Staffing

Section 2 - Lobbying complaints

Table 2.1 - Process used

Table 2.2 - States with administrative decisions

Table 2.3 - States with quasi-judicial hearings

Table 2.4 - Qualifications of commissioner members

Table 2.5 - Caseload and Staffing

Section 3 - Ethics complaints

Table 3.1 - Process used

Table 3.2 - States with administrative decisions

Table 3.3 - States with quasi-judicial hearings

Table 3.4 - Qualifications of commissioner members

Table 3.5 - Caseload and Staffing

SECTION 1 - CAMPAIGN PRACTICES - PAGE 1

TABLE 1.1: Process for Handling Campaign Practices Complaints							
State:	Restrictions on who may initiate complaint?	Is complaint confidential?	Administrative investigation and finding	Quasi-Judicial Hearing	Referred directly to prosecutor	Other	Comments
AK	No	No		x			Complaint received, respondent has 15 days to respond. Staff conducts investigation, reports within 30 days. If probable violation, quasi-judicial hearing held by Commission. Provisions for expedited process.
AL	No						
AR	Yes	Yes	x				
CO	Yes	No		x			Quasi-judicial hearing is held before an administrative law judge
CT	No		x				
*HI	No	No				x	Campaign Spending Commission must receive complaint, then determines: (1) to dismiss, (2) investigate, (3) make non-binding preliminary determination, (4) refer complaint to prosecuting attorney. If respondent contests a preliminary finding then there is a quasi-judicial contested case hearing.
DE	No						
ID	Yes	Yes	x				
MD	No						
ME	No	No				x	Commission on Governmental Ethics and Election Practices investigates allegations by an person, or may initiate own investigation. Apparent violations are referred to the AG.
MN	No	Yes	x				
ND	No						
NE	No	Yes	x				
NH	No	No			x		
*NM	No	No	x				Secretary of State is enforcement authority
OH	No	No		x			Ohio Elections Commission holds a hearing, Commission may impose fine, refer matter to appropriate prosecutor, or enter finding of good cause to not impose a fine or refer matter for prosecution.
*OR	Yes	No		x			Ethics Commission staff investigates, if probable violation, quasi-judicial hearing held by Commission, finding is binding NOTE: Sec of State handles election practice violations. Commission handles campaign finance matters.
*SC	No	Yes		x			State Ethics Commission staff investigates, issues finding. Commission considers, may hold quasi-judicial hearing conducted by panel of 3 Commissioners. If decision appealed to court, penalties stayed. AG's office represents Commission.
*ND	No	No			x		
TX	Yes	Yes	x				
Total: 20	5 yes, 15 no	6 yes, 9 no	7	5	2	2	
MT	No	No	x				

* = new or updated response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

SECTION 1 - CAMPAIGN PRACTICES - PAGE 2

TABLE 1.2: How is the official, commission, board, or panel appointed?	
State:	Comments
AR	Commission: 5 members, appointed 1 each by Governor, Attorney General, Lieutenant Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate.
*HI	Commission: 5 members appointed by Gov. from 10 nominees submitted by Judicial Council. Not subject to legislative confirmation.
MN	Board: 6 members. Gov. appoints with advice and consent of three-fifths of both the house and senate.
NE	Commission: 9 members, including the Secretary of State. 4 members appointed by the Governor as follows: 1 member from each of two lists submitted by the Legislature. Each list must have 5 names on it 4 members are appointed by the Secretary of State as follows: 1 member from a 5-person list of Democrats 1 member from a 5-person list of Republicans 2 members from the citizenry of the state at large. See Neb. Rev. Stat. sec. 49-14,105.
*OR	Commission: appointed by Gov. - 4 appointments based on recommendations by Republican and Democratic leadership in each house of the Legislative Assembly. 3 appointed at large but must be different parties.
*SC	Commission: 9 members appointed by Gov. based on advice and consent of General Assembly. 7 members must be from the 7 congressional districts, 2 must be from the State at large.
TX	Commission: 8 members, 4 appointed by Gov., 4 appointed by Lt. Gov., from list of at least 10 names submitted by house and 10 names submitted by senate, must be from each political party required to hold a primary for balanced representation from each political party.
MT	Commissioner: appointed by the governor, subject to confirmation by a majority of the senate. A four-member selection committee composed of the speaker of the house, the president of the senate, and the minority leaders of both houses of the legislature shall submit to the governor a list of not less than two or more than five names of individuals for the governor's consideration. A majority of the members of the selection committee shall agree upon each nomination.

*= new or updated response for 2/6/14 report

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

SECTION 1 - CAMPAIGN PRACTICES - PAGE 3

TABLE 1.3: Administrative decisions without a quasi-judicial hearing					
State	Is Finding Binding?	Single official	Board/ Commission	Who sets salary?	Certain Qualifications Required?
*AR	Yes		x	Expenses only	Yes
CT			x	Statute	
*HI	No		x	Expenses only	No
ID	Yes	x		Statute	No
MN			x	Statute	Yes
NE	No		x	Appointing authority	Yes
*NM	No	x		State Pay Plan	Must be the Secretary of State
*TX	No		x	Expenses only	Yes
Total: 8	2 yes, 4 no	2	6		4 yes, 1 no
MT	No	x		Appointing authority	Yes

TABLE 1.4: Quasi-judicial hearings					
State	Is Finding Binding?	Single official	Board/ Commission	Who sets salary?	Certain Qualifications Required?
AK			x		
CO	Yes		x		
*HI	No		x	Expenses only	No
*OR	Yes		x	Expenses only	No
*SC	Yes		x	Statutory - same as for any other boards created by statute	No
Total: 5	3 yes, 1 no		5		3 no

* = new or updated response for 2/6/14 report

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

SECTION 1 - CAMPAIGN PRACTICES - PAGE 4

Table 1.5: Qualifications - What qualifications are required by statute for official or board/commission member?	
State	Comments
AR	Board: The membership of the board must include 1 minority, 1 woman, and 1 member of the minority political party. A member may not be a federal state, or local government employee, public official, candidate for public office, lobbyist, or officer or paid employee of an organized political party.
MN	Board: Two members must be former members of the legislature who support different political parties; two members must be persons who have not been public officials, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the date of their appointment; and the other two members must support different political parties. No more than three of the members of the board may support the same political party. No member of the board may currently serve as a lobbyist. Minnesota Statutes section 10A.02.
NE	Board: No more than 4 of the 8 appointed members can be from the same political party. Neb. Rev. Stat, secs, 49-14,105 to 49-14,140 govern the commission.
*NM	Single Official: The Secretary of State
TX	Board: A person may not be a member of the commission if the person is required to register as a lobbyist.
MT	Commissioner: Must be U. S. citizen, Montana resident, registered to vote. During term of office, may not work in other occupation during business hours, may not participate in political activity, must recuse self if conflict of interest.

Table 1.6: Caseload and Staffing					
State	Other complaints?	Number of decisions in last 4 yrs	Full-time staff	FY 2013 Budget	Comments
AK					
DE					
ID					
ND					
*NM	Lobbying and Ethics		5	\$ 860,000	data on caseload not readily available for this survey
NV					
RI					
SD					
VT					
WY					

* = new or updated response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

SECTION 2 - LOBBYING - PAGE 1

TABLE 2.1: Process for Handling Lobbying Complaints							
State:	Restrictions on who may initiate complaint?	Is complaint confidential?	Administrative investigation and finding	Quasi-Judicial Hearing	Referred directly to prosecutor	Other	Comments
AK	No	No	x				Commission investigates claim by any person, if sufficient grounds, investigation ensues. Commission may initiate investigation. Apparent violations referred to AG.
AR	Yes	Yes	x				
CT	No		x				
*HI	No	Yes				x	Ethics Commission conducts initial confidential investigation, issues informal advisory opinion, may make a formal charge, may hold quasi-judicial hearing, case then public record, binding decision.
MD	No	Yes		x			
ME	No	No				x	Commission on Governmental Ethics and Election Practices conducts investigations, may apply penalties prescribed by law. Commission may refer matter to AG.
MN	No	Yes	x				
*ND	No	No			x		
NE	No	Yes	x				
NH	No	No			x		
*NM	No	No	x				Secretary of State is enforcement authority
OH	Yes	Yes				x	Joint Legislative Ethics Committee may investigate complaints. AG also may investigate. If cause of action found, matter referred to prosecuting attorney, who must institute appropriate proceedings.
*OR	No	No		x			Oregon Government Ethics Commission receives, investigates, and adjudicates all lobbyists complaints.
*SC	No	Yes		x			Commission staff investigates, issues probable cause finding. Commission considers, by majority vote, may hold quasi-judicial hearing conducted by a panel of 3 commissioners. Finding is binding, but if appealed to court, penalties stayed. AG's office represents Commission.
TX	Yes	Yes	x				
Total: 15	3 yes, 12 no	8 yes, 6 no	7	3	2	3	
MT	No	No	x				

* = new or updated response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

SECTION 2 - LOBBYING - PAGE 2

TABLE 2.2: Administrative decisions					
State	Is Finding Binding?	Single official	Board/ Commission	Who sets salary?	Certain Qualifications Required?
AK			x		
*AR	Yes		x	Expenses only	Yes
CT			x	Statute	
*DE	Yes		x	Statute	No
*HI	No		x	Expenses only	No
MN			x	Statute	
NE	No		x	Appointing authority	
*NM	No	x		State Pay Plan	Must be the Secretary of State
*TX	No		x	Expenses only	Yes
Total: 9	2 yes, 4 no	1	8		2 yes, 2 no
MT	No	x		Appointing authority	Yes

* Note: Delaware did not answer previous questions on lobbying, so was not included in Table 2.1.

TABLE 2.3: Quasi-judicial hearings					
State	Is Finding Binding?	Single official	Board/ Commission	Who sets salary?	Certain Qualifications Required?
*HI	No		x	N/A Expenses only	No
MD	Yes	x		N/A Expenses only	No
*OR	Yes		x	N/A Expenses only	No
*SC	Yes		x	Statutory - same as for any other board created by statute	No

* = new response for 2/6/14 report

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

SECTION 2 - LOBBYING - PAGE 3

Table 2.4: Qualifications - What qualifications are required by statute for official or board/commission member?

State	Comments
AR	Board: The membership of the board must include 1 minority, 1 woman, and 1 member of the minority political party. A member may not be a federal state, or local government employee, public official, candidate for public office, lobbyist, or officer or paid employee of an organized political party.
*DE	Board: 7 citizens appointed by the Governor for 7 year terms
*NM	Single Official: The Secretary of State
TX	Board: A person may not be a member of the commission if the person is required to register as a lobbyist.
MT	Commissioner: Must be U. S. citizen, Montana resident, registered to vote. During term of office, may not work in other occupation during business hours, may not participate in political activity, must recuse self if conflict of interest.

*Note: Delaware answered "No" to qualifications, but then filled in the comment block on what qualifications, so is included in this table.

Table 2.5: Caseload and Staffing

State	Other complaints?	Number of decisions in last 4 yrs	Full-time staff	FY 2013 Budget	Comments
DE	Ethics	0	2	\$ 188,500	
*NM	Campaign and Ethics		5	\$ 860,000	data on caseload not readily available for this survey

* = new or updated response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

TABLE 3.1: Process for Handling Lobbying Complaints							
State:	Restrictions on who may initiate complaint?	Is complaint confidential?	Administrative investigation and finding	Quasi-Judicial Hearing	Referred directly to prosecutor	Other	Comments
AK	No	No		x			Complaint received. Agency staff conducts investigation, makes report within 30 days. Respondant has 15 days to respond, may request hearing. Commission then holds quasi-judicial hearing. Provisions for expedited handling.
AR	Yes	Yes	x				
CO	No	Yes				x	Colorado constitution created Independent Ethics Commission ("IEC") to hear complaints, issue findings, and assess penalties. May also issue advisory opinions. IEC may dismiss complaints deemed frivolous IEC is required to maintain the confidentiality of complaints dismissed as frivolous.
CT	No	Yes	x				
DE	No	Yes	x				
*HI	No	Yes				x	State Ethics Commission conducts initial confidential investigation, issues informal advisory opinion, may make a formal charge and hold quasi-judicial hearing that renders case public record. Decision is binding.
MD	No	Yes		x			
ME					x		No specific statutory provisions governing ethics or code of conduct violations by Executive Branch.
MN	No					x	General conflict of interest provision (Minn. Stat. 43A.38) that applies to all exec branch employees. No complaint or investigation procedure.
*ND	No	No			x		
NE						x	We do not have any Ethics Board/Commission.
NH	No	No				x	Complaints submitted to Executive Branch Ethics Committee.
*NM	No	No	x				Secretary of State is enforcement authority
OH	No	Yes				x	The appropriate ethics commission investigates complaints received, and, if it finds the complaint is not frivolous, must hold a hearing on the complaint. The commission may refer matters to a prosecutor, dismiss the complaint, or compromise or settle the complaint.
OR	No	No		x			Oregon Government Ethics Commission is responsible for investigating and adjudicating the complaint
*SC	No	Yes		x			State Ethics Commission staff investigates, issues probable cause finding. If Commission agrees by majority vote, quasi-judicial hearing is conducted by panel of 3 commissioners. Finding is binding, but if appealed to court, any penalties are stayed. AG's office represents Commission.
TX	Yes	Yes	x				
Totals:17	2 yes, 13 no	9 yes, 5 no	5	4	2	6	
MT	No	No		x			

* = new response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

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TABLE 3.2: Administrative decisions					
State	Is Finding Binding?	Single official	Board/ Commission	Who sets salary?	Certain Qualifications Required?
*AR	Yes		x	Expenses only	Yes
CT			x	Statute	
DE	Yes		x	Statute	No
*HI	No		x	Expenses only	No
*NM	No	x		State Pay Plan	Must be the Secretary of State
TX	No		x	Other	Yes
Totals: 4	2 yes, 3 no	1	5		3 yes, 1 no
MT	No	x		Appointing authority	Yes

TABLE 3.3: Quasi-judicial hearings					
State	Is Finding Binding?	Single official	Board/ Commission	Who sets salary?	Certain Qualifications Required?
*HI	No		x	Expenses only	No
MD	Yes		x	Expenses only	
*OR	Yes		x	Expenses only	No
*SC	Yes		x	Statutory - same as for any other board created by statute	No

* = new or updated response for 2/6/14 report

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014

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Table 3.4: Qualifications - What qualifications are required by statute for official or board/commission member?

State	Comments
AR	Board: The membership of the board must include 1 minority, 1 woman, and 1 member of the minority political party. A member may not be a federal state, or local government employee, public official, candidate for public office, lobbyist, or officer or paid employee of an organized political party.
*DE	Board: 7 citizens appointed by the Governor for 7 year terms
*HI	State Ethics Commission. 5 members. Members must be selected in a manner which assures their independence and impartiality in accordance with Article XIV of the Hawaii State Constitution. The Judicial Council (a state board attached to the Hawaii Supreme Court) nominates two individuals for each vacancy on the Commission. The nominees' names are sent to the Governor, who selects one of the nominees for appointment to the Commission. Senate confirmation is not required.
TX	Board: A person may not be a member of the commission if the person is required to register as a lobbyist.
MT	Commissioner: Must be U. S. citizen, Montana resident, registered to vote. During term of office, may not work in other occupation during business hours, may not participate in political activity, must recuse self if conflict of interest.
<u>Notes:</u>	
*Deleware did not answer the previous question, so was not included in Table 3.2.	
**Connecticut answered "Yes" to qualifications required by statute but did not fill out the comment on what qualifications.	

Table 3.5: Caseload and Staffing

State	Other complaints?	Number of decisions in last 4 yrs	Full-time staff	FY 2013 Budget	Comments
DE	Lobbying	26	2	\$ 188,500	Not all decisions are based upon complaints. The Commission also issues advisory opinions at the request of an employee or employer.
*NM	Campaigns and Lobbying		5	\$ 860,000	data on caseload not readily available for this survey

* = new response (for 2/6/14 report)

Source: Montana Legislative Services Division Survey Results, Feb. 6, 2014