

SENATE BILL NO. 401

INTRODUCED BY M. WHEAT

BY REQUEST OF THE SENATE STATE ADMINISTRATION STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND EXPANDING THE MEMBERSHIP OF THE BOARD OF VETERANS' AFFAIRS; SPECIFYING THE DUTIES OF THE BOARD; PROVIDING RULEMAKING AUTHORITY FOR THE BOARD; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT AND A FEDERAL SPECIAL REVENUE ACCOUNT TO BE USED FOR VETERANS' SERVICES; AUTHORIZING THE BOARD TO SPONSOR PATRIOTIC LICENSE PLATES; AUTHORIZING COUNTIES TO PROVIDE FOR VETERANS' SERVICE OFFICERS; ALLOWING THE BOARD TO ACCEPT FEDERAL FUNDS AND DONATIONS; SPECIFYING THE ACCOUNT TO WHICH DONATIONS ARE DEPOSITED; TRANSFERRING FROM THE DEPARTMENT OF MILITARY AFFAIRS TO THE BOARD THE OVERSIGHT OF AND RULEMAKING AUTHORITY FOR STATE VETERANS' CEMETERIES; AUTHORIZING ADDITIONAL VETERANS' CEMETERIES; TRANSFERRING FROM THE DEPARTMENT OF MILITARY AFFAIRS TO THE BOARD OF VETERANS' AFFAIRS THE OVERSIGHT OF A SPECIAL REVENUE ACCOUNT FOR VETERANS' CEMETERIES; ALLOWING INCOME TAX DEDUCTIONS FOR CONTRIBUTIONS TO STATE VETERANS' SERVICES; REVISING CERTAIN VEHICLE LICENSE PLATE REGISTRATION FEES TO BENEFIT STATE VETERANS' SERVICES; AMENDING SECTIONS 2-15-1205, 10-2-102, 10-2-106, 10-2-601, 10-2-602, 10-2-603, AND 61-3-321, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

WHEREAS, the 57th Legislature requested a study of veterans' issues, and the State Administration and Veterans' Affairs Interim Committee conducted numerous hearings, received expert testimony, and examined research during a 14-month period; and

WHEREAS, the Interim Committee found that, using 2000 data, Montana's population of nearly 107,000 veterans and an estimated 170,000 family members of veterans not only ranks Montana second in the nation in the number of veterans per capita (11.9%) but also means that veterans and their family members constitute more than 25% of Montana's total population; and

WHEREAS, the Interim Committee found that more than 80,000 Montana veterans are combat-era veterans (more than 36,000 are Vietnam-era, more than 16,000 are Persian Gulf-era, more than 16,000 are World War II-era, and about 14,000 are Korean-era veterans) and that the largest group of veterans is now between 50 and 65 years of age; and

WHEREAS, the U.S. Department of Veterans Affairs estimates that more than 50% of combat theater veterans suffer from clinically serious and disabling posttraumatic stress disorder, that twice as many veterans as nonveterans experience homelessness, that many veterans have overlapping and complex needs encompassing medical and nursing home care, mental health and chemical dependency counseling, housing, transportation, education and training, job services, and family support services, and that the children and families of veterans who do not get the help that they need are themselves at risk; and

WHEREAS, these complex needs and a maze of federal, state, local, public, and private services demand a high level of interagency coordination and cooperation for effective service delivery to ensure that veterans and their families do not fall through the cracks and to avoid unnecessary cost-shifting from federal to state and local public assistance programs; and

WHEREAS, the Interim Committee found that current statutory language establishing the Board of Veterans' Affairs as the lead agency for veterans' affairs dates back to 1919 and that although the Board's duties and responsibilities have consistently evolved, statutory language has not kept pace; and

WHEREAS, the Board hires and supervises its own classified employees, who make up the Montana Veterans' Affairs Division, but the Board does not have rulemaking authority to implement programs; and

WHEREAS, the Board is administratively attached to the Department of Military Affairs, which has greatly assisted veterans and supported the Board but has no statutory authority over veterans' affairs; and

WHEREAS, a legislative performance audit requested by the Interim Committee revealed that although the Montana Veterans' Affairs Division is to be commended for doing a great job with limited resources and limited statutory guidance, it also revealed that new management tools and updated information management systems are needed to provide more consistency and to track and manage staff workload; and

WHEREAS, the U.S. Department of Veterans Affairs spent about \$175 million in Montana during fiscal year 2000, which ranked Montana 37th nationwide` in per capita expenditures by the U.S. Department of Veterans Affairs on veterans; and

WHEREAS, the Interim Committee found that a statutory restructuring of powers, duties, and responsibilities for state veterans' affairs programs is essential, not only to address inadvertent statutory shortfalls and elevate the profile of state veterans' affairs, but also to better integrate benefit claims with human services programs so that eligible veterans and family members receive the federal compensation, benefits, and care that they have earned in self-sacrificing service in the armed forces of the United States of America.

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

Section 1. Section 2-15-1205, MCA, is amended to read:

"2-15-1205. Board of veterans' affairs -- composition -- quorum -- voting -- compensation -- allocation. (1) There is a board of veterans' affairs.

(2) (a) The board consists of five 20 members. All members must be residents of this state. Eleven members are voting members, who must be confirmed by the senate, and nine members are nonvoting, ex officio members.

(b) The governor shall appoint 19 members appointed by the governor with the consent of the senate. Not more than one member shall be appointed from a single county. However, a change of residence within the state after appointment does not alter a member's status. in a manner that provides for staggered terms. The members are:

(i) All five regional representatives, who must be voting members and who members shall be residents of this state and shall must have been honorably discharged from service in the military forces of the United States in any of its wars. Each must be appointed to represent a different geographic region of the state and must be a resident of that geographic region. The board shall establish the geographic regions by rule. A member who represents a geographic region and who changes residence to a different geographic region may no longer serve on the board unless appointed as a representative for the new location or as a representative meeting other criteria.

(ii) one honorably discharged veteran, who must be a voting member and serve as a representative of veterans at large;

(iii) one tribal member who must be an honorably discharged veteran and who is a voting member;

(iv) three members who must have training, education, or experience related to veterans' issues, including but not limited to health and medical care, mental health care, chemical or drug dependency, homelessness, or job training and placement. These three members are voting members.

(v) a representative of the office of state coordinator of Indian affairs, who is a nonvoting member;

(vi) a representative from the department of public health and human services, who is a nonvoting member;

(vii) a representative of the United States department of veterans affairs, who is a nonvoting member;

(viii) a representative of the veterans' employment and training service office in the United States department of labor, who is a nonvoting member;

(ix) a representative of the state administration and veterans' affairs interim committee, who is a nonvoting member;

(x) three members, one representing each house and senate member of Montana's congressional delegation, who are nonvoting members; and

(xi) the director of the department of military affairs, who is a nonvoting member.

(c) The Montana members of the Montana-Wyoming tribal leaders council may appoint one voting member who is affiliated with a Montana tribe and is an honorably discharged veteran. If a tribal member is not appointed by the Montana-Wyoming tribal leaders council, the governor shall choose this member by lot from a pool of names submitted by the eight tribal councils in the state, with each tribal council submitting one name.

(3) A vacancy occurring on the board shall ~~shall~~ must be filled by the governor, subject to the conditions of this subsection (2).

(4) A quorum is six voting members.

(5) A vote resulting in a tie is the same as a negative vote.

~~(3)~~(6) Each voting member shall ~~shall~~ must receive compensation meals, lodging, and travel expenses as provided for in ~~37-1-133~~ 2-18-501 through 2-18-503.

(7) The board shall meet at least four times a year. Special meetings may be called by the administrator or by a majority of voting members. Meetings may be held at different locations around the state to give local veterans an opportunity to attend. Advance notice of meetings must be provided to all veterans' groups and to any individual who requests notification.

~~(4)~~(8) Each voting member shall ~~shall~~ may serve for a maximum of two terms. Each term ~~of 5~~ is for 4 years.

~~(5)~~(9) A member may be removed by the governor only for incompetence, malfeasance, or neglect of duty.

(10) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, ~~and 2-15-121(2)(d) does not apply~~ including an administrator. The administrator shall serve as the secretary of the board and may represent the board in communications with the governor and with other state agencies, notwithstanding the provisions of 2-15-121(3)(a)."

Section 2. Section 10-2-102, MCA, is amended to read:

"10-2-102. ~~Duty~~ Duties of board -- employee qualifications. (1) The board shall establish a statewide service for ~~discharged~~ veterans and their families; as provided in this section. The board shall:

(a) actively cooperate with local, state, and federal agencies ~~having to do with~~ whose services encompass the affairs of veterans and their families; ~~and~~;

(b) promote the general welfare of all veterans and their families;

(c) assist veterans and their families who are residents of this state in filing claims for the benefits to which they are entitled. In carrying out this duty, the board and its accredited employees shall, upon the request of an eligible claimant, act as agents for the claimant in developing and presenting claims for benefits provided under Title 38 of the United States Code. The board shall seek to secure speedy and just action for each claimant. A board employee officially acting as an agent on behalf of a claimant must be properly accredited and recognized pursuant to 38 CFR 14.628 and 14.629.

(d) officially advocate for the fair treatment of Montana's veterans and their families by the U.S. department of veterans affairs with respect to claims processing, health care services, and other veteran-related programs and inform veterans and their family members of all available grievance procedures;

(e) develop and implement an information and communication program to keep veterans and their family members informed about available federal, state, and community-based services and benefits. The program may include but is not limited to:

(i) development and distribution of a services and benefits directory;

(ii) regular public service announcements through various media;

(iii) an internet website with information and links relevant to veterans and their families and including information about board meetings and activities related to veterans' affairs; and

(iv) a quarterly newsletter, which may be printed or electronically distributed by e-mail or by posting it to an appropriate website.

(f) seek grants to help fund veterans' programs established pursuant to this section;

(g) develop a memorandum of understanding with the federal veterans' employment and training service and with other appropriate entities to facilitate interagency cooperation, such as resource sharing, cross-training, data and information sharing, and service delivery coordination;

(h) establish management tools, including but not limited to needs assessments, policy statements, program goals and objectives, performance measures, and program evaluation criteria;

(i) prepare a biennial report to the governor, the department of military affairs, the appropriate legislative interim committee, and veterans' service organizations. The report must include but is not limited to the latest information about the demographics of Montana's veteran population, a needs assessment, annual summaries of the veterans' special revenue accounts established in [section 3] and 10-2-603, and a review of the veterans' affairs budget.

(j) request legislation responsive to identified needs.

(2) Employees of the board must be residents of this state. Whenever possible, all employees of the

board must have served in the military forces of the United States during World War I, World War II, the Korean war, ~~or the Vietnam conflict~~, or other period of conflict involving the United States military overseas and must have been honorably discharged. Preference for employment must be given to disabled veterans.

(3) The board shall hire an administrator to implement board policy and carry out the duties of the board."

NEW SECTION. Section 3. Veterans' services special revenue account -- sources of funds -- designated uses. (1) There is a veterans' services account in the state special revenue fund, established pursuant to 17-2-102(1)(b), to the credit of the board.

(2) Money collected from fees on motor vehicle registrations, as described in 61-3-321, from license plate sales as described in [section 5], and from gifts, grants, or donations must be deposited in the veterans' services account.

(3) Legislative appropriations of money in the veterans' services account must be used for the purposes identified in 10-2-102 or other functions authorized by the board.

(4) There is a veterans' services federal special revenue fund established for federal funds received under 10-2-106 and known as the veterans' services federal account.

NEW SECTION. Section 4. Rulemaking authority. The board shall adopt rules in accordance with the Montana Administrative Procedure Act provided for in Title 2, chapter 4, to implement the provisions of this part.

NEW SECTION. Section 5. Patriotic license plates -- surcharge -- disposition. (1) Subject to 61-3-472 through 61-3-481 and this section, the board may sponsor a generic specialty license plate designed as a patriotic salute to Montana's military veterans.

(2) A Montana resident may purchase patriotic plates for a \$15 surcharge to be paid for each original set of plates and each renewal. The surcharge is in addition to the one-time administrative fee charged pursuant to 61-3-480(1).

(3) The surcharge collected pursuant to this section must be remitted as provided in 61-3-480 and deposited to the veterans' services account established in [section 3(1)].

NEW SECTION. Section 6. County veterans' service officers. A county may, with the advice of the board, provide for a county veterans' service officer to assist veterans and their families in filing benefit claims.

If a county provides for a veterans' service officer under this section, the officer must be trained, accredited, and supervised in accordance with the applicable provisions of 38 CFR 14.629. A county may fund the position as provided for in 15-10-425 or through other means provided by law.

Section 7. Section 10-2-106, MCA, is amended to read:

"10-2-106. Acceptance of federal funds or other funds. (1) The board may accept from the federal government or any of its agencies ~~thereof~~ any funds made available to carry out ~~purposes within the scope of~~ the activities and purposes of the board as identified in 10-2-102 ~~and accept such funds as the board directs.~~ Federal funds must be deposited in the federal special revenue account established in [section 3(4)].

(2) The board may accept gifts, grants, or donations from other public or private sources, which must be used within the scope of activities and purposes identified in 10-2-102 or as otherwise authorized by the board.

(3) Gifts, grants, or donations must be deposited in the veterans' services state special revenue account established in [section 3(1)] unless specifically assigned by the donor to the special revenue account for state veterans' cemeteries established in 10-2-603."

Section 8. Section 10-2-601, MCA, is amended to read:

"10-2-601. State veterans' cemeteries. ~~The department of military affairs board~~ shall establish and operate state veterans' cemeteries. A cemetery must be located at Fort William Henry Harrison, Lewis and Clark County, Montana, and at Miles City. The board may establish additional state veterans' cemeteries as funding appropriated pursuant to 10-2-603 allows."

Section 9. Section 10-2-602, MCA, is amended to read:

"10-2-602. Rulemaking authority. ~~The department of military affairs board~~ shall adopt rules that to administer the state veterans' cemetery program and to provide criteria for determining which veterans who may be buried in a state veterans' cemetery. The criteria must include but are not limited to discharge status and length of service. The rules must be adopted in accordance with the Montana Administrative Procedure Act provided for in Title 2, chapter 4."

Section 10. Section 10-2-603, MCA, is amended to read:

"10-2-603. Special revenue account -- use of funds -- solicitation. (1) There is an account in the special revenue fund to the credit of the ~~department of military affairs board~~ for the state veterans' cemeteries.

(2) Plot allowances, ~~and donations~~ to the cemetery program, and fund transfers pursuant to 15-1-122(3)(d) must be deposited into the account.

(3) As appropriated by the legislature, money in the account may be used only for the construction, maintenance, operation, and administration of the state veterans' cemeteries.

(4) The ~~department of military affairs may~~ board shall solicit veterans' license plate sales and donations on behalf of the state veterans' cemeteries."

NEW SECTION. Section 11. Income tax deduction for contribution to veterans' programs. (1) A taxpayer who itemizes deductions in filing an individual or a joint income tax return may, in computing net income, claim a deduction for donations to the veterans' services special revenue account established in [section 3(1)], the state veterans' cemetery program pursuant to 10-2-603, or any surcharge paid pursuant to [section 5].

(2) A taxpayer may enclose a separate check or other payment to contribute to the veterans' special revenue accounts, established in [section 3(1)] and 10-2-603 and count that deduction from taxes for the year in which the donation was made.

(3) The department shall provide a form to identify the deduction, and the contribution must be attached to the form.

(4) All money received pursuant to subsection (1) must be forwarded upon receipt by the department to the state treasurer for deposit in the veterans' services account established in [section 3(1)] or to the special revenue account established in 10-2-603. If the taxpayer does not specify to which fund the contribution is intended to go, the department shall deposit the money in the veterans' services account established in [section 3(1)]. The department may not make deductions for administrative expenses in handling these donations.

Section 12. Section 61-3-321, MCA, is amended to read:

"61-3-321. Registration fees of vehicles -- certain vehicles exempt from license or registration fees -- disposition of fees. (1) Registration or license fees must be paid upon registration or reregistration of motor vehicles, trailers, and semitrailers, in accordance with this chapter, as follows:

- (a) light vehicles under 2,850 pounds, \$13.75;
- (b) trailers with a declared weight of less than 2,500 pounds and semitrailers, \$8.25;
- (c) motor vehicles registered pursuant to 61-3-411 that are:
 - (i) over 2,850 pounds, \$10; and
 - (ii) under 2,850 pounds, \$5;

- (d) off-highway vehicles registered pursuant to 23-2-817, \$9;
- (e) light vehicles over 2,850 pounds, trucks and buses less than 1 ton, and heavy trucks in excess of 1 ton, \$18.75;
- (f) logging trucks less than 1 ton, \$23.75;
- (g) motor homes, \$22.25;
- (h) motorcycles and quadricycles, \$9.75;
- (i) trailers and semitrailers between 2,500 and 6,000 pounds, \$11.25;
- (j) trailers and semitrailers in excess of 6,000 pounds, other than trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement, \$16.25;
- (k) travel trailers, \$11.75; and
- (l) recreational vehicles, \$3.50.

(2) If a motor vehicle, trailer, or semitrailer is originally registered 6 months after the time of registration as set by law, the registration or license fee for the remainder of the year is one-half of the regular fee.

(3) An additional fee of \$5 must be collected for the registration of each motorcycle as a safety fee and must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(4) A fee of \$2 for each set of new number plates must be collected when number plates provided for under 61-3-332(2) are issued.

(5) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202.

(6) (a) Except as provided in 61-3-562 and subsection (6)(b) of this section, a fee of 25 cents a year for each registration of a vehicle must be collected when a vehicle is registered or reregistered. The revenue derived from this fee must be forwarded by the county treasurer for deposit in the general fund for transfer to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112.

(b) The following vehicles are not subject to the fee imposed in subsection (6)(a):

(i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and

(ii) travel trailers, recreational vehicles, and off-highway vehicles registered pursuant to 23-2-817.

(7) (a) Except as provided in 61-3-562 and subsection (7)(b) of this section, a fee of 50 cents a year for each registration of a vehicle must be collected for deposit in the veterans' services state special revenue account established in [section 3(1)] when a vehicle is registered or reregistered. The county treasurer shall forward

revenue derived from this fee to the state for deposit in the account.

(b) The following vehicles are not subject to the fee:

(i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement;

(ii) off-highway vehicles registered pursuant to 23-2-817; and

(iii) vehicles bearing license plates described in 61-3-332(10)(d).

~~(7)(8)~~ The provisions of this section relating to the payment of registration fees or new number plate fees do not apply when number plates are transferred to a replacement vehicle under 61-3-317, 61-3-332, or 61-3-335.

~~(8)(9)~~ A person qualifying under 61-3-332(10)(d) is exempt from the fees required under this section.

~~(9)(10)~~ Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund."

NEW SECTION. Section 13. Implementation. (1) The members of the board of veterans' affairs, established in 2-15-1205, who are members on the day before [the effective date of this act] may continue to serve the remainder of their terms as described under the provisions of 2-15-1205.

(2) Appointments to the board made after [the effective date of this act] must be made as described in 2-15-1205(2).

NEW SECTION. Section 14. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. Section 15. Codification instruction. (1) [Sections 3 through 6] are intended to be codified as an integral part of Title 10, chapter 2, part 1, and the provisions of Title 10, chapter 2, part 1, apply to [sections 3 through 6].

(2) [Section 11] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 11].

NEW SECTION. Section 16. Effective date. [This act] is effective January 1, 2004.

- END -