



# State Administration and Veterans' Affairs Interim Committee

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## 57th Montana Legislature

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

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

**COMMITTEE STAFF**  
SHERI HEFFELFINGER  
RESEARCH ANALYST  
DAVID NISS, STAFF ATTORNEY  
MIKO OWA, SECRETARY

September 12, 2002

## MINUTES

Room137, State Capitol  
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

### COMMITTEE MEMBERS PRESENT

Sen. Don Hargrove, Chairman  
Rep. Larry Jent, Vice Chair

Sen. John Bohlinger  
Sen. Glenn A. Roush  
Sen. Ken Toole (part of meeting)

Rep. Edith J. Clark  
Rep. Ralph Lenhart  
Rep. Allan Walters

### STAFF PRESENT

Sheri Heffelfinger, Research Analyst  
Pat Murdo, Research Analyst, Secretary

### VISITORS

Visitors' list, Attachment #1.

### AGENDA

See Attachment #2.

### COMMITTEE ACTIONS

- ▼ Approved meeting minutes for June 20, 2002, and June 21, 2002, without amendment.

- ▼ Voted to authorize for drafting an agency bill by request of the Department of Military Affairs. The proposed bill would revise 10-1-501 and 10-1-502 to allow National Guard members to be paid directly by another agency when the members are activated to perform services pursuant to a contract with another agency, such as firefighting services for the Department of Natural Resources and Conservation.
- ▼ Voted to accept the latest version of LC 0221 as the Committee bill to restructure state veterans services.
- ▼ Voted to adopt the final report on Montana's voting systems, which reflects the findings and recommendations of the HJR 8 Subcommittee on Voting Systems.
- ▼ Assigned sponsors to Committee bills.

### **CALL TO ORDER AND ROLL CALL**

The meeting was called to order at 1:03 p.m. by Sen. Hargrove. Roll call was noted. Rep. Jent called to say he would be late (arrived about 1:30). Sen. Toole provided Rep. Lenhart with his proxy but was present for part of the meeting.

### **AGENDA DISCUSSIONS**

Sen. Hargrove noted that the major item on the agenda would be discussion of legislation to reorganize state veterans affairs and to place the Montana Veterans' Affairs Division under the Department of Military Affairs, a study project that has extended over five years.

Sen. Hargrove also noted that U.S. Secretary for Veterans Affairs, Anthony Principi, would be visiting Montana and there may be an opportunity for members of the Committee and interested persons to meet with him. The visit is expected in late September.

### **DEPARTMENT OF MILITARY AFFAIRS' REQUEST FOR AGENCY LEGISLATION**

Sen. Hargrove introduced Major General John "E." Prendergast, Director of the Department of Military Affairs, who introduced Lieutenant Colonel James Moran. LTC Moran presented information on a requested amendment to Title 10-1-501 and 10-1-502, which describes how National Guard members are to be paid when called to state active duty. The requested change allows payment to be made directly to the Guard member by the agency that has contracted with the National Guard for services, such as firefighting services. The current process requires the payment to be made from the general fund. LTC Moran said the change would streamline the payment process by allowing use of standardized forms and regulations rather than requiring unique agreements. LTC Moran also said the measure would help in responding to natural disasters.

Sen. Hargrove asked if the process would be the same as used between local fire departments and the state Department of Natural Resources and Conservation. LTC Moran said the process would be the same.

Sheri Heffelfinger, Committee Staff, asked if the measure would affect the military status of Guard members. LTC Moran said not and that Guard members would still be subject to the uniformed code of military justice and the orders and directives from the governor.

Sen. Hargrove asked if legislation is required. LTC Moran responded yes because current law specifies the pay rates for guard members on state active duty. LTC Moran said the legislation will give the Department of Military Affairs flexibility.

Sen. Hargrove asked about the financial impact on the Guard members. Ms. Heffelfinger read current statutes, which provide for officers to be paid at rates equivalent for rank and length of service in federal service while enlisted personnel receive twice the rates for similarly employed persons in federal service for 15 days, with equivalent pay for those in federal service after 15 days -- except that those provisions do not apply to those whose pay for active duty is paid from federal funds. LTC Moran said he did not expect the practical effect of allowing flexibility for pay to be set by contract to result in less pay for Guard members.

Rep. Clark asked whether the change would cost the state more than it now pays. LTC Moran replied that he was unsure of the fiscal impact on the state.

Sen. Hargrove asked why the legislation is necessary. LTC Moran said other states are passing similar legislation. There is a concern that volunteers are no longer enlisting in certain job skill areas because they can receive higher pay from private agencies. He added that service men and women always step up and do their job when called. He noted that administrative savings are expected from the bill.

Sen. Bohlinger commented that administrative savings would seem to result from streamlining the process and that perhaps the legislation would allow savings if the current statute is revised regarding the provision for paying at twice the federal rate of pay for 15 days.

Ms. Heffelfinger said the pay rates would depend on how the contracts are written. She noted that there is a disparity in whether payment is made by federal funds or not. She said the action requested by the Department of Military Affairs is to draft legislation and that by authorizing the bill draft request the committee could proceed to the next step of getting a fiscal note.

Sen. Hargrove commented, "Our military people are not mercenaries. We do what we do because there's a need for it to be done. We don't have a draft any more. No one's conscripted. I don't want to take away from that noble method of operating. Certainly our folks deserve a good wage. Perhaps there's a little bit of conflict there. I have no doubt troops will do what is necessary regardless. Flexibility is a good thing. I think I would support it in the long run."

Rep. Clark moved to accept the bill draft request on behalf of the committee. Rep. Lenhart seconded. The motion carried unanimously, with Rep. Lenhart casting Sen. Toole's vote by proxy.

#### **STAFF REVIEW OF PROPOSED LEGISLATION LC 0221**

Ms. Heffelfinger provided a summary of proposed legislation, LC 0221 (see Attachment #3), which took shape over 14 months of meetings. She reviewed the preamble and asked

committee members to let her know if they had problems with the "whereas" clauses. She passed out copies of background data related to the bill (see Attachment #4). She noted that numbers had been updated to include Census 2000 information, including Montana's drop into second place (from a tie for first place) on the ratio of veterans to the total state population (11.9 percent). She will update the "whereas" section of LC 0221 and also re-check the dollar amount listed for cash payments paid to veterans and their families. The language related to \$175 million spent by the Veterans Administration in Montana will specify that the amount was in 2000.

Ms. Heffelfinger pointed out that under LC 0221 the Department name would change to the Department of Military and Veterans' Affairs (DMVA). She described the composition of a proposed interagency coordinating council provided for in Section 2 of the bill draft. The council would have at least 12 members. Ms. Heffelfinger noted that the description for the council was based on other interagency councils in the state.

Rep. Lenhart asked if all members would be voting members. Ms. Heffelfinger said they would, but members invited by not required to be present would have to be physically present at the meeting to vote, keeping in mind any action by the council is simply advisory in nature.

Ms. Heffelfinger noted that some people had suggested listing all veterans' service organizations instead of referencing just four of the veterans' groups. She noted that the Committee could add language to the section to allow any interested veteran service organization to participate. She also said that some people who had commented said the voice of veteran groups would be diluted because of all the other interests represented on the council. Ms. Heffelfinger said a quorum would consist of seven of the 12 appointed members but that a voting majority would consist of a majority of those present. She pointed out that another change from current statute would decrease the compensation paid to the 5 members appointed by the governor from \$50 to \$25 plus travel and per diem, which is standard for other advisory councils. Only those appointed by the governor would receive compensation and per diem.

Among the comments that Ms. Heffelfinger received on the proposed legislation were to strengthen language in the bill to clearly state the department is to seek funding from grants, which could be added as a new subsection (g) in Section 4 of the bill.

Ms. Heffelfinger summarized Section 7, which establishes a special revenue account fund that would receive monies from special license plates. The appropriation from the special revenue account would be by the legislature, with the money not being used to offset department funding in any way. Ms. Heffelfinger explained how special license plates work and pointed to a license plate program in Florida as a possible example (see Attachment #4). She noted that new language would require the department to solicit funds rather than simply giving permission to receive donations.

Ms. Heffelfinger summarized Section 16, which requests the DMVA to study an emergency assistance program similar to a program in Wisconsin.

Ms. Heffelfinger also reviewed the written comments that she received. These are included in Attachment #4.

Sen. Roush described the process undertaken by the subcommittee that developed the bill. As

chair of the subcommittee, he said the solution proposed by the subcommittee was not 100 percent supported. However, the subcommittee felt action was necessary because of a legislative audit and because subcommittee staff found that the current Board of Veterans' Affairs lacks rulemaking authority. He noted that the Committee could have retained the present board of veterans' affairs and give them rulemaking authority, but that the problem was funding. He noted that the subcommittee considered inclusion of authority to seek grants an important aspect.

Sen. Hargrove thanked Sen. Roush for the background information.

Rep. Lenhart asked for clarification of the appointments, other than those appointed by the governor.

Ms. Heffelfinger noted that the remainder would be appointed by different agencies or veterans' organizations.

#### **ALTERNATIVE PROPOSAL TO LC 0221**

LTC Joe Foster, administrator-select for the Montana Veterans Affairs Division, submitted an alternative proposal (see Attachment #5) and provided testimony in support of the alternative (see Attachment #6) along with a budget overview with suggested remedies for a projected deficit (see Attachment #7). The alternative proposal would give rulemaking to the Board of Veterans' Affairs, keep the Board as the lead agency for veterans' affairs, but add for members, each representing a specified veteran service organization (i.e., the American Legion, the Veterans' of Foreign Wars, the Disabled American Veterans, and the Vietnam Veterans' of America).

In response to a question from Sen. Hargrove, LTC Foster said he thinks the heart of the difference between the proposals is in the make-up of the Board and its role versus the role and composition of the interagency advisory council.

Sen. Hargrove said he thinks the subcommittee started with a measure much like that offered by LTC Foster but that after much discussion, the proposal had changed to the one reflected in the current draft of LC 0221.

Sen. Roush said he appreciated the suggestion made by LTC Foster of requiring geographic representation. He said that, although he is a veteran, he is not a member of any veterans' groups. He would like to see anyone who is not a member of a veterans' group still be able to participate. Sen. Roush said he agreed with LTC Foster about the audit and the audit's reference to a lack of funding. He also noted the difference between state-led veterans' programs and federal programs, such as those at Fort Harrison and that the subcommittee found that Fort Harrison is very much a federal organization and that efforts to cooperate and pursue coordination have not met with success. Sen. Roush also said the search for money might include looking at a cigarette tax increase, though he said patriotic license plates are probably a better way to go. Sen. Roush also cautioned the Veterans' Affairs Division about taking money out of the account reserved for veterans' cemeteries, noting that there is talk about creating a third cemetery. He emphasized the need for finding a better way to fund veterans' affairs.

Rep. Jent referred to his military history and current work that includes being able to serve before the court of veterans' appeals. He said his interest is in veterans having the tools they need to get their benefits. He noted that the current system is working fairly well but that it is not authorized due to a statutory shortfall regarding rulemaking authority. He commended the efforts behind both LC 0221 and the alternative proposal.

Sen. Bohlinger noted his experience in the Marine Corps and that he had never applied for benefits but he knew that they were of great help to friends with whom he had served. He asked to hear from those present since he was not on the subcommittee to hear testimony.

Rep. E. Clark asked that consideration be given regardless of which bill would be chosen to specifying that the appointments made by the governor each represent a geographic region.

### **COMMENTS ON LC0221 AND THE ALTERNATIVE BILL**

Sen. Hargrove asked representatives of veterans' organizations in the audience to comment.

Hal Manson, representing the American Legion, expressed concern about what he described as the dilution of representation by veterans' groups and said he was very much against a large change in the way the board is operated.

Dan Antonietti, a representative of the Veterans of Foreign Wars and a World War II veteran, said that veterans received bonuses after the war but that later the money went into the general fund. He questioned why a member of the veterans employment and training organization employed by the Department of Labor should be put on the board, as provided for in LC 0221. He said that the VFW members oppose LC 0221 in its entirety. He also said that the VFW members would have a few problems with the alternative described by LTC Foster but that he considered that version acceptable. He warned against looking at federal money to aid veterans because of federal control. He said employment issues should be state-oriented.

Earl Vermillion, a representative of the Disabled American Veterans, said that he noticed many people perceived that veterans service organizations were in competition with each other. He said that the choice of service organizations doesn't make any difference as long as the representatives are veterans. He called the size of the proposed board "humongous" and said he couldn't recall any similar coordinating committee and that the proposed coordinating council looked more like an oversight committee. He noted that he had worked for the Board of Veterans' Affairs and that the main problem then, as now, was money. He asked the Committee members to consider what they want to accomplish with the bill in its entirety and what would be gained from the bill. He suggested that trying to fund the mandates in the bill would be an impossibility.

Art Heffelfinger, representing the Vietnam Vets of America, said he both agreed and disagreed with Mr. Vermillion. He said that what would be gained by the current draft of LC0221 would be money and that the bill would also would bring together under one house all groups that deal with veterans services, which would make communication and coordination of resources more efficient. He also said the bill opens up an array of grant possibilities. He pointed to the statistics related to Montana's high number of veterans per capita in comparison with the state's 37th place ranking for federal dollars received for veterans. He disagreed with the concern about diluting the voice of veteran service organizations by adding non-veterans because, he

suggested, anyone willing to write a check to benefit veterans is welcome.

He emphasized that the concern is not with who is a member of what organization but rather with the issues that affect veterans. He said the legislative audit showed that the current set-up is not efficient. He also referred to the Vietnam Veterans' success in discovering that veterans had been exposed to hazards but never told about them. He noted that a proactive board or coordinating council could address similar issues. As for the concerns about divisiveness among veterans, he said the concern was not the membership of the board but the functionality. He offered a list of supporters for LC 0221.

Sen. Hargrove summarized that most of the comments centered on the board's composition, which, he said, had expanded and shrunk at different times. He noted that the debate would continue and that the board composition may change as the legislation is debated during the Session. In citing the need for legislation, Sen. Hargrove said he was convinced that the current organizational structure of the system was bad and that too much dissatisfaction with the status quo indicated a need to move forward with change. He said he would support LC 0221 and that it provides a better organization with more authority.

Rick Salyer, a member of the audience, thanked the committee for legislation that identified the importance of finding more money through grants to help fund veterans' affairs.

Sen. Bohlinger suggested the importance of involving Montana's congressional delegation in searching for federal money because, he said, the state legislature will not be able to solve the funding issues.

Herb Ballou, a member of the audience, was recognized and presented copies of a letter related to comments by Massachusetts Sen. John Kerry about cutbacks in veterans' services (see Attachment 8). He also handed out his letter to the editor expressing concern about Fort Harrison's future (see Attachment 9). Mr. Ballou said he was convinced that funding would be cut for veterans' affairs and said he questioned the reasons behind the visit by the VA official, Mr. Principi, to Montana. He suggested the need for a nursing home at Fort Harrison.

With little further discussion, Rep. Lenhart moved to adopt LC 0221 as drafted as the Committee bill. Rep. E. Clark seconded the motion, which then passed unanimously.

Sen. Hargrove suggested that a sunset provision could be considered as a part of the bill, with dissolution scheduled for parts of the bill in perhaps 2007 unless the legislature removed the sunset. He said that the structure could go back to its current structure if it turns out to be not functional.

The meeting recessed about 3:15 and reconvened about 3:30 p.m.

Committee members discussed whether to change LC 0221 to include geographic representation in the governor's appointments. Ms. Heffelfinger remarked that in the current draft, the governor's appointments were to reflect consumer groups and one representative of the homeless veterans. Sen. Hargrove suggested that the committee leave LC 0221 as presented. Ms. Heffelfinger said that an amendment could be prepared to reflect geographic representation.

Sen. Roush noted that LC 0221 had been rewritten several times in the last few months and suggested that organizations with further suggestions should bring them to the legislature during the Session.

Sen. Hargrove said that the main concern seemed to be the composition of the board.

Sen. Roush said the composition could be changed easily. Geographic representation would not be a problem.

Sen. Hargrove thanked the Committee and Ms. Heffelfinger for her work. He asked if there was money in the budget for another meeting of the interim committee.

Ms. Heffelfinger said yes if the Committee used money that would otherwise be saved for the period between the end of the 2003 legislative session (April 2003) and the start of the new fiscal year on July 1, 2003.

Sen. Hargrove said he would like another meeting while Mr. Principi was in Montana.

#### **STAFF REVIEW AND ACTION ON HJR 8 CHANGES TO VOTING SYSTEM**

Ms. Heffelfinger referenced the draft copy of the final report on the voting systems study and asked the committee its preferences and instructions per efforts by the Legislative Council to make final reports most useful to legislators.

Rep. Walters gave background information on HJR 8 and said that, while he personally did not like mandating the abolition of punch card systems, because he doesn't like mandates, the change is necessary.

Ms. Heffelfinger pointed out that the two recommendations to come out of the HJR 8 study were a ban of punch cards and general revision bill on voting systems and counting procedures.

Rep. E. Clark said the draft document prepared by Ms. Heffelfinger was wonderful material that she plans to provide to high school classes as background on government.

Rep. Walters noted that early discussions on the subcommittee included differences of opinion but that later discussions were in agreement.

Rep. E. Clark moved acceptance of HJR 8 draft final report. Rep. Walters seconded. The motion carried unanimously.

#### **REVIEW OF SJR 5 FINAL REPORT ON VETERANS AFFAIRS**

Sen. Hargrove noted that an interim committee report had not yet been prepared for the SJR 5 study.

Ms. Heffelfinger asked the committee what style of report the members preferred: one in which the background and context is provided in the first chapter, followed by methodology, agendas, complete documentation and recommendations, or one that serves as an executive summary.

Sen. Hargrove said he preferred an executive summary. As an example, the report on the material leading up to LC 0221 would include the background of the veterans' organizations, the problems that were observed, the relationship with Fort Harrison and the response to the legislative audit report. This would be followed by the bills, with some explanation and rationale regarding various parts of the bill. The goal would be for an interested person to be able to look at the report and not be overwhelmed.

## **OTHER BUSINESS**

Sen. Roush asked about the lack of an effective date in LC 0221.

Ms. Heffelfinger responded that when there is no listed effective date then the automatic effective date is October 1 following passage of the legislation.

Rep. Lenhart asked if it would be important to have the legislation in effect by the time interim committees started to meet.

Ms. Heffelfinger noted that the October effective date gives administrators time to prepare rules to implement the legislation and the code commissioner time to codify and publish the new codes.

Sen. Bohlinger said that his conversations with election judges revealed a concern that the judges did not know if the people who are voting are who they say they are. He suggested that a voter identification card would be helpful. He asked whether the legislation being drafted could include a requirement for voters to show a picture I.D.

Sen. Hargrove suggested that Sen. Bohlinger could bring the concept up during the Session but that the Committee had already completed its work and should not get into this issue now.

Sen. Roush thanked Sen. Hargrove for all his work and his service to the people of Montana. He wished him well and said the committee would miss him and that he wishes that Sen. Hargrove would be around the legislature in 2003.

Sen. Hargrove thanked the Committee and also asked committee members to consider legislation for a licensing board for general contractors. He said he had been approached by contractors who are concerned about fly-by-night operations that sometimes turn out to be substandard.

Ms. Heffelfinger asked for sponsors of Committee-proposed legislation (see Attachment #10). Assignments were made as follows:

LC 0219 - Banning punch cards - Rep. Jent/ Sen. Bohlinger

LC 0220 - Revising voting system technologies and vote counting process - Rep. Lenhart

LC 0221 - Revising state veterans' affairs structure - Sen. Roush (if elected)

LC 0222 - Revising veterans' property tax and vehicle fee benefits - Sen. Roush (if elected)

LC 0223 - Update military veteran list of qualifying campaigns - Rep. Lenhart

LC 0224 - Eliminate 10-yr period for PERS re military service - Sen. Bohlinger or Sen. Stapleton

LC 0225 - Coordinate PERS for elected officials - Sen. Toole

LC 0226 - Allow firefighters in Air National Guard to move from PERS to FURS - Sen. Bohlinger

LC 0227 - Provide Professional Retirement Option for teachers - Rep. Jent  
LC 0294 - Transfer county detention officers to sheriff's retirement system - Rep. Lenhart  
LC 0323 - Allow participants in federal volunteer program to buy PERS service - Sen. Bohlinger  
LC 0324 - Provide for escort and fees for transporting radioactive waste - Rep. E. Clark or Rep.  
Bookout-Reinicke

Meeting adjourned at 4:09 with the possibility of meeting VA Official Principi in late September.