The Interim Newsletter

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Click on the Events Calendar for up-to-date information on committee meetings.

Committee to Review Range of Mental Health, Prescription Drug Approaches

The Children, Families, Health, and Human Services Interim Committee will hear about different approaches to providing mental health services and to curbing prescription drug abuse when it meets on Jan. 10.

The presentations will be part of the committee's continued work on the House Joint Resolution 16 study of state-operated institutions and the Senate Joint Resolution 20 study of ways to reduce prescription drug abuse.

For the HJR 16 study, the committee will learn more about previous efforts to establish 16-bed mental health treatment facilities in Montana and the barriers that prevented their creation. Committee members also will review the practice of assisted outpatient treatment and will look at the Montana laws that allow that type of treatment in the community.

The committee will continue its SJR 20 study by hearing from representatives of state agencies that pay or review medical claims for low-income people and for injured workers. The agency representatives will discuss the types of prescription drug claims that the programs are paying and the efforts they are taking to control costs related to prescription pain relievers.

In addition, Peter Kreiner of the Prescription Drug Monitoring Program Center of Excellence at Brandeis University will discuss practices that have been identified as working best to reduce prescription drug abuse, including best practices in prescription drug registries.

The committee also will hear updates on the Department of Public Health and Human Services as part of its oversight responsibility. Among other things, the department will report on a foster care demonstration project that has been approved by the federal government.

Next Meeting

The committee meets next on Jan. 10 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Sue O'Connell, committee staff.

Committee Website: www.leg.mt.gov/cfhhs
Committee Staff: soconnell@mt.gov or 406-444-3597

Economic Affairs Committee to Address Animals, Work Comp and More

The Jan. 27-28 meeting of the Economic Affairs Interim Committee will range from horse transfers across county and state lines to a diverse array of workers' compensation subjects and more information on professional and occupational licensing boards.

The varied topics on the Jan. 27 agenda include overview monitoring of the departments of Livestock and Agriculture as well as discussions of:

- the problems associated with brand inspections and possible solutions related to county-to-county and cross-border transfers of horses;
- an update on the administrative rule requiring "sell by" dates for milk sold in Montana, currently a subject of litigation, and whether legislation is appropriate for changing to a "bottled on" date;
- funding for and accreditation of Montana's Veterinary Diagnostic Laboratory at Montana State University-Bozeman;
- the legislative financial audit of the Department of Labor and Industry, which indicated some licensing boards were assessing fees that brought in more revenue than the costs of operations, among other concerns;
- options other than boards for overseeing professional and occupational licensing, including a presentation about the Public Water Supply and Operation Certification Program run by the Department of Environmental Quality and a panel discussion about the purposes of a board; and
- how to handle financial concerns related to the Board of Funeral Services, the Board of Hearing Aid Dispensers, and the Board of Private Alternative Adolescent Residential or Outdoor Programs.

On Jan. 28, the committee will begin an in-depth exploration of workers' compensation, including options for restructuring the Montana State Fund and other topics under the House Joint Resolution 25 study of workers' compensation. The committee will review areas in which stakeholders remain at odds on restructuring as members discuss recommendations made by a Dec. 18 subcommittee that heard about the steps that stakeholders in the workers' compensation industry believe are necessary for restructuring the Montana State Fund. As a state entity, the Montana State Fund long has been required to provide workers' compensation coverage to any employer that has not previously defaulted on premium payments. This requirement means that the Montana State Fund serves as Montana's guaranteed market or insurer of last resort.

Other workers' compensation topics include reviews of:

- subrogation as that insurance terms applies to workers' compensation and the constitutional provision that injured workers are entitled to "full legal redress." A panel discussion will feature representatives of various insurers and the Montana Trial Lawyers Association.
- injured worker benefits under the current workers' compensation laws in Title 39 of the Montana Code Annotated; and
- valuation of the Old Fund, which is the term for the money set aside for medical bills and lost-wage payments of workers who experienced injuries before July 1, 1990, and who were covered by the Montana State Fund. This money currently comes from the state's general fund. However, from 1990 to 2012 when the account was depleted, the money was paid out of the actual Old Fund account.

Public comment will be accepted on both days for specific agenda items, with times set aside for the public to comment on any other items that are relevant to the committee studies or topics.

Next Meeting

The committee meets next at 10:30 a.m. on Jan. 27 in Room 137 of the Capitol in Helena. The meeting will continue at 8 a.m. on Jan. 28. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Pat Murdo, committee staff.

Committee Website: www.leg.mt.gov/eaic
Committee Staff: pmurdo@mt.gov or 406-444-3594

ELG Forms Subcommittee to Review Shared Policy Goals for Education

The Education and Local Government Interim Committee heard a variety of reports on education topics at its Dec. 2 meeting and formed the Subcommittee on Shared Policy Goals for Education to review documents that were developed during the 2009-2010 interim.

At that time, ELG collaborated with the Board of Public Education, the Office of Public Instruction, the Commissioner of Higher Education and the Board of Regents in crafting three non-binding agreements outlining shared policy goals and accountability measures for K-12, K-20 and the Montana University System. The agreements were called for in two resolutions approved by the 2009 Legislature, House Joint Resolution 6 and Senate Joint Resolution 8. The resolutions

said the agreements would "advance interagency cooperation and the quality of education policymaking."

The 2011-2012 ELG briefly reviewed and reaffirmed the documents, but recommended that the 2013-2014 interim committee conduct an in-depth review involving all of the stakeholders who developed the original documents. The subcommittee will conduct that review.

Subcommittee members are Reps. Kris Hansen, R-Havre, and Edie McClafferty, D-Butte, and Sens. Eric Moore, R-Miles City, and Sharon Stewart-Peregoy, D-Crow Agency. Hansen will serve as presiding officer. The subcommittee will meet prior to a full committee meeting on Feb. 3 in Helena.

Indian Languages Preservation

Heather Sobrepena-George of the State Tribal Economic Development Commission updated the committee on the Montana Indian Language Preservation Pilot Program, which was created by passage of Senate Bill 342 in 2013. All eight tribal governments are participating in the pilot project and have formed local program advisory boards to carry out a wide variety of activities intended to support the preservation of Indian languages.

Activities include the creation of immersion camps, interactive websites, smartphone apps, audio and video recordings, and school curricula.

HJR 2 Study

The committee also received a progress report on the investigation of electronic records management requested by the 2013 Legislature in HJR 2. Earlier this interim, the committee authorized a work group to fulfill the requirements of the study resolution. Committee staff provided a recap of two work group meetings that took place in October and November and summarized the responses to a survey of state agencies and local governments on the effectiveness of current electronic records management.

The work group will next examine how states identified as leaders in electronic records management have made improvements in this area. It also will review Montana statutes related to records management to identify any necessary changes to allow, encourage or require improvements. A webpage for HJR 2 and work group materials can be located via the committee's website.

School Buses Circumnavigate the Globe Daily!

Ross Johnson of the Legislative Audit Division presented the findings and recommendations of a recent performance audit of School Transportation Funding and Safety. The audit described the sources of funding for school transportation and discussed the ways in which routes are established and partially reimbursed by the state. Among other things, committee members learned that on a regular school day, school buses in Montana traverse distances equaling four trips around the Earth.

Johnson reviewed the recommendations contained in the audit as well as actions being taken to address those findings. The audit found that modifications to the statutory reimbursement schedule in 2003 unintentionally provided an incentive to school districts to purchase larger buses than ridership required, resulting in increased reimbursements to the districts. The audit recommended the Legislature review the current statutory reimbursement schedule to determine if changes are necessary "to promote efficiency, simplicity, or equity." Members of the committee questioned Johnson about other possible causes for the higher reimbursements as well as possible legislative remedies.

The committee heard about and discussed other issues ranging from open meeting laws during executive sessions to public concerns related to the implementation of the Montana Common Core Standards.

The committee also received:

- an analysis of public charter school legislation considered by the 2013 Legislature;
- a review of Gov. Steve Bullock's education initiatives;
- an update on the K-12 Data Task Force created in SB 175; and
- an overview of the structure and mission of the Board of Public Education.

Next Meeting

The dates for the next committee meeting were changed to Feb. 3-4. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Pad McCracken, committee staff.

Committee Website: www.leg.mt.gov/elgic
Committee Staff: padmccracken@mt.gov or 406-444-3595

Environmental Quality Council to Hear Federal Land Management Ideas

A study of federal land management and a review of hunting and fishing licenses top the agenda for the Environmental Quality Council meeting in January.

The EQC also will continue its discussion on the management of Virginia and Nevada cities in Madison County and Reeder's Alley in Helena.

Other agenda items for the Jan. 8-9 meeting include a discussion of septic inspections, bison management, a sage grouse

report and enforcement reports from the departments of Agriculture, Natural Resources and Conservation, and Fish, Wildlife, and Parks.

SJR 15 Study of Federal Land Management

The council will hear from a slate of speakers and receive the results of a survey of county commissions when it takes up the Senate Joint Resolution 15 study of federal land management. Twenty-seven of the 35 county commissions surveyed by the EQC responded to the survey.

SJR 15, sponsored by Sen. Jennifer Fielder, requested a study to evaluate lands managed by the U.S. Forest Service and the Bureau of Land Management, to identify measures that will help ensure those lands are managed responsibly and prudently for present and future generations.

A work group chaired by Fielder has met twice a month by teleconference since October to identify risks and concerns associated with federal land management in Montana. Other work group members include Sen. Bradley Hamlett and Reps. Ed Lieser and Kerry White.

The work group selected speakers for the January meeting who will compare the conditions on state and federal lands, analyze laws affecting ownership, jurisdiction and management of public lands, and offer solutions to identified problems. The speakers are:

- Tom France of Missoula, an attorney with the National Wildlife Federation;
- attorney Ken Ivory of West Jordan, Utah, a state representative since 2011;
- Peter Kolb of Missoula, the Montana State University Extension forestry specialist and an adjunct associate professor at the University of Montana;
- Doyel Shamley of Stateline, Nev., who is CEO of Veritas Research Consulting;
- John Tubbs, director of the Montana Department of Natural Resources and Conservation; and
- Martha Williams of Missoula, who teaches environmental and wildlife law at the University of Montana School of Law, supervises the Public Land and Resources Law Review, and is co-director of the Land Use & Natural Resource Clinic.

Results of the county survey and information about the study are available on the EQC website at www.leg.mt.gov/eqc. For more information on the study or to submit comment, contact Joe Kolman at 406-444-3747 or jkolman@mt.gov.

HB 609 Study of Hunting and Fishing Licensing

The EQC will review work that has been done to date by a governor-appointed advisory council created to consider changes to Montana's hunting and fishing licenses and fees. The advisory council is looking for feedback from the EQC on its preliminary recommendations.

House Bill 609, passed by the 2013 Legislature, called for the EQC to undertake a similar review of the licenses and fees. Because both the EQC and the governor-appointed council have been given similar tasks, the EQC has chosen to monitor and incorporate the advisory council's work into its own review of the state's hunting and fishing license system.

The 13-member advisory council has focused on examining ideas for simplifying the different types of licenses offered by the Department of Fish, Wildlife, and Parks. The group is also looking into the impacts of special earmarked accounts and free and discounted licenses on funding for fish and wildlife management.

So far, some possible recommendations include:

- standardizing the free and discounted hunting and fishing licenses offered to youth, seniors and the disabled. This could include changing their prices to half the cost of the equivalent full-priced licenses.
- raising the age at which seniors are eligible for discounted licenses, to 70;
- consolidating youth license pricing from three age groups to two;
- creating a base hunting license for archery and firearm seasons that must be purchased before individual species tags. This would replace the archery stamp. Hunters could purchase the archery option, the firearm option, or both.
- not altering the B-10 nonresident big game combination license or the B-11 nonresident deer combination license;
- increasing nonresident moose, mountain sheep, mountain goat and bison licenses to $1,500 each; and
- reducing the time between legislative review of the license structure and prices from approximately 10 years to four years.

The advisory council will consider an across-the-board fee increase for resident licenses when it meets Jan. 16-17 in Helena.

The HB 609 study stemmed from concerns about the stability of and long-term funding for FWP and the complexity of its hunting and fishing licensing structure.

For more information on the HB 609 study or to submit comment, contact Hope Stockwell, research staff, at 406-444-9280 or hstockwell@mt.gov.

Next Meeting

The council meets next at 9 a.m. on Jan. 8 in Room 317 of the Capitol in Helena. The meeting will continue at 8 a.m. on Jan. 9. For more information on the council's activities and upcoming meeting, visit the council's website or contact Joe Kolman, council staff.

Council Website: www.leg.mt.gov/eqc
Council Staff: jkolman@mt.gov or 406-444-3747

Law and Justice Committee Continues Parole Board, Family Law Work

The Law and Justice Interim Committee recently braved the wintry Montana weather to deliberate on proposed changes to Montana's system of parole and on adjustments to family law procedures.

At the Dec. 5 meeting, panelists from diverse backgrounds weighed in as part of the Senate Joint Resolution 3 study of the Board of Pardons and Parole. The panelists offered their ideas for changing the current parole laws and process. Other panelists pointed out the difficulties inherent in parole decisions and offered support for the existing system or suggested that only small changes should be considered.

Suggestions from several attorneys in private practice, a county attorney, community service providers and two former lawmakers were as varied as the panelists and included: looking at the board's exemption from most of the Montana Administrative Procedure Act (MAPA); forming a sentencing commission to take a broad look at Montana's criminal sentencing structure; and restricting the Board's ability to set conditions of parole. Another panelist recommended that the committee explore computer-based risk assessment systems that several states use to guide parole decisions.

Committee members also learned about innovative jail diversion programs operating in both Gallatin and Yellowstone counties and heard updates on questions they had posed to legislative staff at the previous committee meeting.

During a work session, the committee decided to use future meetings to explore several suggestions including:

- requiring audio and video recording of parole hearings;
- requiring the board to follow MAPA provisions;
- developing and requiring use of a risk assessment model that uses both objective and subjective measures for parole decisions;
- revisiting the repeal of "good time," in which an inmate's sentence was reduced for good behavior while incarcerated;
- devising a "certificate of rehabilitation" for offenders who obtain certain qualifications or achieve specific milestones; and
- examining conditions of parole that the board may place on an offender who is released to parole.

Montanans Speak on Family Law Difficulties

Three Montanans described their experiences with Montana laws involving dissolution of marriage and parenting plans during the committee's work on the SJR 22 study of family law. The panelists put a human face to complicated family laws as they spoke of the challenges of understanding the laws and court procedures, of crafting parenting plans that are comprehensive and adequate but also flexible enough to guide parents through 18 years of shared parenting, and of finding attorneys to assist them in the legal process.

Two attorneys and a city court judge who is actively involved in efforts to assist Montanans who represent themselves in court spoke about the possibilities and limitations of developing statewide parenting guidelines. The topic had been raised at previous LJIC meetings, and the committee learned more about existing guidelines and how statewide guidelines might be developed and put into practice.

For its next meeting, the committee agreed to explore changes to four areas of family law that might not make major adjustments in the current law but could streamline the process for litigants, attorneys and judges alike. The committee will look at:

- eliminating the requirement for a hearing before a judge enters a final dissolution decree in specific cases where the divorce is uncontested;
- clarifying which parent must find a motion to amend a parenting plan when one parent will be relocating to a different city or state and the other parent objects to substantial changes that would need to be made to the parenting plan because of the relocation;
- allowing a husband who changed his name at marriage to restore his original name as part of the divorce filing, as is already allowed for a wife; and
- adjusting the debt limit allowed for two people who wish to proceed with an uncontested divorce.

Gun Ownership and Mental Illness

At its next meeting, the committee will tackle the issue of gun ownership and mental illness. The members indicated their interest in this subject in September.

Topics will include the National Instant Criminal Background Check System, the records Montana currently provides, the records it is required by federal law to provide but doesn't, how that noncompliance might affect federal funding, how reporting certain information might implicate Montana's strong right to privacy, and what, if anything, the Legislature might do to bring the state into compliance with federal reporting laws, if it desires.

Next Meeting

The committee meets next on Feb. 13-14 in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Rachel Weiss, committee staff.

Committee Website: www.leg.mt.gov/ljic
Committee Staff: rweiss@mt.gov or 406-444-5367

Legislative Council Seeks Public Input on Legislative Improvement

Every citizen in Montana has a stake in the legislative process. The Legislative Council is seeking public input on how to improve the Montana Legislature and will schedule time to hear ideas when it meets Jan. 8 in Helena.

Items on the agenda include information on annual sessions, the legislative calendar, legislator compensation, and orientation and training.

The council will be reviewing and adopting goals against which to measure any proposals. The proposed goals are to empower and enable citizen legislators to serve well during the session and the interim by developing a legislative calendar that provides:

- a schedule that assists in the recruitment of candidates;
- respect for employment, families and the demands of citizen life;
- time to prepare for session between the election, the party caucuses at which legislative leaders are elected, and the legislative session, in order to build lines of communication and relationships and to allow time for planning;
- opportunities for legislators to absorb what's happening and to receive appropriate training opportunities in multiple stages at appropriate times;
- sufficient time for the public to participate in the committee process and to testify;
- time for requesting and drafting legislation and for leadership to analyze bills for duplication and strategy; and
- time to work, maintain momentum, and compel action toward completion of the session, with some leeway.

Opportunities for public comment will occur in the morning, after the presentation on annual sessions, and again in the afternoon. All stakeholders from the public, current and past legislators, lobbyists, agency representatives and public interests groups will have an opportunity to speak on their ideas for legislative improvement.

Next Meeting

The committee meets next at 9 a.m. on Jan. 8 in Room 102 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Susan Byorth Fox, committee staff.

Committee Website: www.leg.mt.gov/legcouncil
Committee Staff: sfox@mt.gov or 406-444-3066

Legislative Finance Committee Delves into Pay Plan Study

The Legislative Finance Committee took a closer look in December at the considerations that go into establishing state employee pay, as members worked on the House Joint Resolution 17 study of state pay plans.

The committee also discussed topics ranging from state information technology efforts to the status of the state employee pension system and the Medicaid program during its Dec. 9-10 meeting.

HJR 17 requested a legislative review of the pay plans and the way they're developed, to determine if any legislative changes are needed to the process.

A panel of state human resources directors discussed recruitment and retention and the use of the pay plans. Panelists explained the difficulty in recruiting for some positions in the human services areas of state government and the importance of increasing pay to meet market-based compensation. They also discussed recruitment and retention concerns in the Bakken oil development area. New options provided by the Natural Resource Energy Economic Impact Policy, a state pay policy that allows pay adjustments to be made in the Bakken area, have not been implemented.

The committee also received a report from the Office of Budget and Program Planning on implementation of House Bill 13, including the impacts on salaries for executive branch

employees. HB 13 provided for a pay increase for state employees.

Committee members asked that a panel of union representatives be invited to the committee's March meeting to discuss collective bargaining agreements. The committee also asked staff to provide additional information on administrative rules for pay bands, an updated legal memo on state employee salaries and collective bargaining, regional market comparisons, gender and pay information, and coordination of pay policies among executive branch agencies.

Medicaid Monitoring

The committee received a report on the Medicaid program administered by the Department of Public Health and Human Services and the Fiscal Year 2014 appropriations approved by the 2013 Legislature. Staff provided a report explaining an estimated cost overrun of expenditures for Medicaid services. DPHHS projects that it may exceed its general fund appropriation for Medicaid by $7.7 million because of costs for physician and hospital services, children's mental health services, nursing home services and adult mental health services.

If cost projections continue to exceed available funds, DPHHS may need to move funds from its FY 2015 appropriation to FY 2014 — a move that would allow LFC to review and comment on the statutorily required plan to reduce expenditures to be within the appropriations in the second year of the biennium.

As part of the LFC's role in monitoring state information technology projects, the committee heard from DPHHS staff about the progress of the Medicaid Management Information System being developed by Xerox. The new system for processing Medicaid claims is behind schedule, and DPHHS and Xerox disagree on whether some of the elements that DPHHS expects for the system are included in the contract. R.G. Conlee of Xerox explained the development, schedule for delivery, problems encountered to date and proposed solutions. Conlee said Xerox would present a new work plan to the state in an effort to offer suggestions for changes to the project. The committee asked staff to report on the outcome of the Xerox work plan meeting, develop options for LFC to monitor the situation, and hold a conference call with the LFC management committee to determine the next steps.

Pension Review

The committee received a legal memo from legislative staff to explain the lawsuit filed against the Montana Public Employee Retirement Administration by the Association of Montana Retired Public Employees. The suit challenges the reduction that will be made to the Guaranteed Annual Benefit Adjustment (GABA) in the Public Employees' Retirement System under the provisions of House Bill 454. The plaintiffs have asked for both a preliminary and a permanent injunction to prevent the state from decreasing the GABA to 1% on Jan. 1, 2014, as required by HB 454.

The executive director of the Public Employees' Retirement System also provided an actuarial report to the committee. The committee asked that LFD staff explain the updated PERS model at the March meeting.

Other Business

Staff also provided an update on the local government infrastructure project, focusing on water supply, wastewater, solid waste and bridge construction. At the March committee meeting, staff will provide further information on infrastructure funding programs, including criteria used in program ranking, impact assessment concepts and affordability calculations.

In other business, the committee:

- heard a staff report on the Montana State Fund budget;
- received an update on the progress of the statewide accounting system upgrade known as IBARS; and
- received an updated report on the general fund status and revenue trends. Staff reported that the general fund ending fund balance is estimated to be $347.1 million for FY 2015. The Legislative Fiscal Division revenue staff stated that the difference between the net updated trend and the official revenue estimate in SJR 2 could increase the ending fund balance by $3.9 million.

Next Meeting

The committee meets next on March 13-14 in Room 102 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Legislative Fiscal Analyst Amy Carlson.

Committee Website: www.leg.mt.gov/lfc
Committee Staff: acarlson@mt.gov or 406-444-2986

RTIC Hears Information on Tax Appeal, Oversize Load Studies

The Revenue and Transportation Interim Committee took an in-depth look at tax appeal procedures and learned more about oversize loads on state highways when it met in Helena last month.

The committee also heard reports from the Department of Revenue on the endowment tax credit and biodiesel blending and storage credit and from the Department of Transportation on dyed diesel enforcement and biodiesel fuel tax incentives. The Department of Revenue also updated the

committee about ongoing and recently resolved litigation and departmental operational efficiencies.

SJR 23 Study

The committee continued the Senate Joint Resolution 23 study of the taxpayer appeal process by receiving responses to information requested at the October meeting about statewide property taxes in other states, the budget for the State Tax Appeal Board (STAB), data availability, and a summary of tax appeal processes used in other states. In addition, the Department of Revenue provided information on the number of property appeals resolved at each step in the process and on the basis for recent appeals.

The committee also discussed the State Tax Appeal Board's use of the record established in the department's Office of Dispute Resolution (ODR). Jaret Coles, legislative attorney for the committee, presented a memorandum indicating that the board is required to consider DOR evidence that was not presented in an ODR hearing. The memo also discussed potential amendments to the law to prohibit the Revenue Department from introducing evidence in STAB proceedings that was not a part of the ODR record. Dan Whyte, deputy chief legal counsel for the department, said such prohibitions could have the effect of making ODR hearings more formal. There was some committee interest in including this issue on a list of possible recommendations for the committee to consider later in the interim.

As requested by the committee in October, STAB Chairwoman Karen Powell compared the American Bar Association's Model State Administrative Tax Tribunal Act with Montana statutes that provide for STAB. The Montana taxpayer appeal process aligns with the ABA model act by providing for an independent tribunal separate from the Department of Revenue that uses informal rules. Montana law does require a taxpayer to pay taxes that are being protested, a practice that is at odds with the ABA model act. Powell also concluded that county tax appeal boards, which hear property tax cases except for centrally assessed property cases, serve as a kind of small claims division, which is another tenet of the ABA model act.

The committee allotted time on the December agenda for public comment aimed at identifying concerns with the tax appeal process. One comment period was set aside for non-property tax appeals, while the other was devoted to property tax appeals other than centrally assessed property appeals. Those appeals will be discussed in February. All the comments received in December focused on the property tax appeal process, with speakers expressing the following common themes:

- The appeal process should be shortened. One idea focused on allowing complex or high-value appeals to be heard directly by STAB, rather than a local county tax appeal board. Other ideas included allowing a taxpayer to appeal directly to district court without first appealing to STAB and allowing STAB cases to be appealed directly to the Montana Supreme Court, rather than to district court.
- The deadline for filing a property tax appeal is related to the taxpayer's receipt of the appraisal, not receipt of the tax bill. Comments indicated that taxpayers may have difficulty translating the appraisal into tax liability and that receipt of the tax bill is the action more likely to trigger an appeal.
- The qualifications of STAB members should be considered. Ideas included having one member be a certified appraiser and, particularly if the district court step is removed, requiring at least one STAB member to have the same qualifications as a district court judge.

SJR 26 Study

As part of the committee's SJR 26 study of the movement of oversize loads, staff presented information on oversize load corridors in other jurisdictions and an update on Idaho lawsuits addressing the movement of oversize loads. A representative of Billings-based Bay Montana discussed his company's experience in moving oversize loads from Billings to Alberta and the company's experience in other states such as Texas.

The SJR 26 study material wrapped up with a presentation from the Department of Transportation about whether it has the authority to create oversize load corridors in Montana. Legal staff for the department concluded that creating oversize load corridors would require a change in statute.

Revenue Monitoring

As part of the committee's revenue estimating and monitoring duties, the Legislative Fiscal Division presents regular updates to the committee. At the December meeting, LFD updated Fiscal Year 2014 year-to-date revenue trends and compared those figures with the 2013 legislative session revenue estimate in SJR 2. The overall estimated change is $3.9 million higher than the SJR 2 estimate.

The LFD presentation was for informational purposes only and does not affect the revenue estimate adopted by the 2013 Legislature.

Next Meeting

The committee meets next on Feb. 18-19 in Room 172 of the Capitol in Helena. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Megan Moore, committee staff.

Committee Website: www.leg.mt.gov/rtic
Committee Staff: memoore@mt.gov or 406-444-4496

SAVA Hears Varied Perspectives on Political Practices Office

Does Montana's commissioner of political practices have too much power or not enough? How can the Legislature ensure that the commissioner, who is appointed by the governor, is objective and nonpartisan? Do enough checks and balances exist to ensure that those against whom complaints are filed are treated fairly? How can the commissioner's office be made more effective and efficient?

These were among the questions asked Dec. 10 by members of the State Administration and Veterans' Affairs Interim Committee as they engaged a panel of people experienced with campaign, ethics and lobbying issues in a round-table discussion about the powers and duties of the Office of Commissioner of Political Practices (COPP), which handles campaign finance, lobbying and ethics complaints.

The examination is part of the committee's work under House Joint Resolution 1, which calls for the committee to study the process for selecting the commissioner, the structure and duties of COPP, and the commissioner's enforcement powers. The resolution further requests recommendations to the full Legislature for ways to improve confidence in the integrity, objectivity and capabilities of the COPP.

The study resolution passed in the wake of controversy over the appointment process for the commissioner. State law requires that a four-member selection committee made up of the speaker of the House of Representatives, the president of the Senate, and the minority leaders of both houses of the Legislature submit to the governor the names of two to five individuals the governor may consider for appointment to the post. A majority of the selection committee members are supposed to agree on each nomination. However, the governor does not have to appoint from the list of nominees, and commissioners have been appointed who were not on the list of candidates submitted by the nominating committee.

After Commissioner Dennis Unsworth's term expired in 2010, Gov. Brian Schweitzer appointed Jennifer Hensley. However, the Senate refused to confirm her appointment, citing her political ties to the Democratic Party. Schweitzer's next appointee, David Gallik, a former Democratic legislator, resigned after about eight months on the job. He left amid allegations, which he denied, that he used state equipment and time to conduct his private law business. Schweitzer next appointed James Murry, who also had Democratic Party ties. But Murry notified the 2013 Legislature that he would not seek confirmation of the appointment. Thus, following the legislative session, the selection committee met again and nominated four people for Gov. Steve Bullock's consideration. Bullock appointed one of the nominees, Jonathan Motl, who will be subject to Senate confirmation during the 2015 Legislature.

Ideas for Change

During the December SAVA meeting, committee members asked for further research into a suggestion that was made for handling interim appointments in a way that would boost public confidence about the integrity of the confirmation process. The suggestion was to authorize the Senate State Administration Committee or an appropriate interim committee to schedule a hearing and swear witnesses, including the appointee and perhaps the governor, so that committee members could ask tough questions. The committee also could subpoena witnesses or documents necessary to have a thorough hearing about the qualifications and background of the nominee. The committee would then make a recommendation to the full Legislature, which would vote by mail ballot on whether to confirm the appointment.

Participants noted that legal research would be needed to determine if the proposed process could be carried out under current law or if the statutes or the Montana Constitution would need to be changed. The committee asked that the research be done and will consider the idea further at its Feb. 6 meeting.

Other suggestions included simplifying and reducing the number of campaign finance reports. However, some panelists disagreed with the idea, saying that full disclosure is necessary to ensure the integrity of campaigns. All of the panelists seemed to agree that the COPP needed additional funding. Commissioner Motl submitted a letter stating that his office needs at least one additional support staff position, an additional attorney and a litigation fund. The panelists also seemed to agree that the state's ethics and lobbying laws need to be examined and tightened.

During the discussion, participants said COPP should spend most of its time on the bigger campaign finance issues rather than honest reporting mistakes. In response, the committee asked Motl to provide a report in February about how much staff time is spent on relatively minor reporting errors.

Pension Update

The committee also received an update on the Fiscal Year 2013 actuarial valuations of the public employee pension systems.

The valuations for the Teachers' Retirement System and the Public Employees' Retirement System were based on two scenarios: one with the reduction of the Guaranteed Annual Benefit Adjustments (GABA) intact as passed by the 2013 Legislature and one without the GABA reduction in the event that the reductions — currently being challenged in court — are overturned as an unconstitutional contract impairment.

For a table summarizing the findings of the valuations, click here.

Election Deadlines

The committee also is conducting a study of election dates and deadlines under SJR 14, which requests an examination of the feasibility of combining primary and school elections. The Subcommittee on Combining Elections met Sept. 18 and decided to first examine how to create more consistency in the election laws concerning dates and deadlines.

The subcommittee will likely hold another meeting in January, but the meeting date has not yet been set.

Next Meeting

The full committee meets next on Feb. 6 in Helena. For more information about the committee's activities and upcoming meeting, please visit the committee's website or contact Sheri Scurr, committee staff.

Committee Website: www.leg.mt.gov/sava
Committee Staff: sscurr@mt.gov or 444-3596

State-Tribal Committee to Travel to Crow Reservation, Women's Prison

The State-Tribal Relations Interim Committee will hold a joint meeting with the Crow Tribal Council on Jan. 13 and will tour the Montana Women's Prison in Billings on Jan. 14.

On Jan. 13, the committee's portion of the agenda will begin with staff updates on work that has been done on behalf of the Fort Belknap Indian Community Council stemming from the committee's visit there in October.

The committee also will review quarterly reports from participants in the Montana Indian Language Preservation Pilot Program as part of the committee's monitoring duties under Senate Bill 342, the 2013 legislation that created the pilot program.

The agenda also includes discussions of:

- the Tribal Secured Transaction Act. The Crow Tribe was first in the nation to adopt this model act. A designee from the tribe will discuss the tribe's experience implementing this act, and one of the act's drafters, Susan Woodrow of the Federal Reserve Bank of Minneapolis, will also speak.
- transferability of academic credits between tribal colleges and the Montana University System. Little Big Horn College President David Yarlott and Major Robinson of the Montana Board of Regents will discuss the topic, following up on an October discussion with Aaniiih Nakoda (Fort Belknap) College officials. That meeting was attended by four tribal college presidents.
- bison management. The committee will receive a prepared statement from State Veterinarian Martin Zaluski on the topic of brucellosis vaccination and will hear a presentation by a designee of the tribe about any future plans for receiving bison on the reservation.
- the litigation brought by plaintiffs from the Crow, Northern Cheyenne and Fort Belknap tribes on the matter of satellite voting offices. A representative of the Secretary of State's Office will answer questions about the matter.

The Crow Tribal Council will develop a portion of the agenda for the Jan. 13 meeting, as well.

Indian Incarceration

The committee also will examine the topic of Indian incarceration during the two-day meeting.

Mike Batista, director of the Montana Department of Corrections and head of the newly created Re-Entry Task Force, will speak to the committee on Jan. 13. The 2013 Legislature created the task force, which is focusing on pre- and post-release programs that help former inmates adjust to family and community life and work opportunities after prison. Harlan Trombley, the American Indian liaison for the department, also will speak.

The committee will continue with the topic on Jan. 14 when it travels to the Montana Women's Prison in Billings. Members will talk with Corrections Department officials, tour the facility, and meet with inmates in an effort to gain more insight into policies and conditions of incarceration.

Next Meeting

The committee meets next on Jan. 13-14 in southeastern Montana. Members will convene at 8 a.m. on Jan. 13 at the Cultural Lodge of Little Big Horn College in Crow Agency. On Jan. 14, the public portion of the committee's agenda will be held from 9:45 to 11:15 a.m. at the Billings Chamber of Commerce, 815 S. 27th St., in Billings. The committee will then tour the Montana Women's Prison; the tour will be limited to committee members and staff. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Casey Barrs, committee staff.

Committee Website: www.leg.mt.gov/tribal
Committee Staff: cbarrs@mt.gov or 406-444-3957

Exempt Wells, CSKT Water Rights – Again – Before Water Policy Committee

The Water Policy Interim Committee will again entertain two familiar topics at its upcoming January meeting: exempt groundwater wells and a proposed water rights compact.

The Reserved Water Rights Compact Commission will present a much-anticipated report at approximately 2:15 p.m. on Jan. 6 on the proposed compact with the Confederated Salish and Kootenai Tribes. Gov. Steve Bullock directed the compact commission to draft the report "addressing the questions raised about the compact during the 2013 Legislative session." The compact commission also gathered questions from interested parties this summer; the report contains responses to these questions.

The proposed water compact was introduced but not passed by the 2013 Legislature. WPIC identified the compact as its primary issue for the 2013-2014 interim.

Exempt Wells

On Jan. 7, the committee will hear a Department of Natural Resources and Conservation administrative rule proposal related to exempt wells. The agency first proposed a new definition for a "combined appropriation" in September. The rule was dropped after the Environmental Quality Council objected, based on a recommendation by WPIC.

The term "combined appropriation" is referenced in statute, but is only defined in administrative rule. How the term is defined may impact the development of smaller groundwater wells, which are exempt from the DNRC permitting process. The new definition is expected to be published in the Montana Administrative Register in the coming weeks.

Also during its two-day meeting, the committee will consider:

- progress on the state water plan update;
- a Montana v. Wyoming water lawsuit update;
- the Columbia River Treaty review process; and
- the definition of a perennial stream.

The committee also will host a four-member panel on the future of agricultural water use. Three university faculty members and one state administrator will present findings related to key stresses to the state's agricultural water supply, future supply and demands, climate variability, research priorities on the subject, and the resiliency of the agricultural water system.

Next Meeting

The committee meets next at 9 a.m. on Jan. 6 in Room 172 of the Capitol in Helena. The meeting will continue at 8 a.m. on Jan. 7. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Jason Mohr, committee staff.

Committee website: www.leg.mt.gov/water
Committee staff: jasonmohr@mt.gov or 406-444-1640

The Back Page
The Voting Rights Act: Continually Making History Since 1965

by Rachel Weiss, Research Analyst
Legislative Services Division

Since its initial adoption in 1965, the landmark Voting Rights Act has been often amended and reauthorized by Congress and interpreted and reinterpreted by the U.S. Supreme Court. The result is a short piece of statutory law that is accompanied by an ever-growing body of case law interpreting its meanings. Recently, the U.S. Supreme Court ruled that certain provisions of the act are unenforceable and called upon Congress to go back to the drawing board if it wanted to resuscitate those provisions.

This article outlines the history of the Voting Rights Act, explains the major 2013 ruling that affects it, and summarizes various Voting Rights Act cases that are being or have been litigated in Montana.

Historic Enactment

Although the 15th Amendment altered the U.S. Constitution in 1870 to prohibit the United States or any state from denying or abridging a citizen's right to vote based on "race, color, or previous condition of servitude," the U.S. Congress didn't adopted legislation to realize that vision for nearly 100 years, when it adopted the Voting Rights Act of 1965.

Congress did enact legislation before 1965 in several attempts to remove barriers put in place by many Southern states after Reconstruction to make it more difficult for racial minorities to vote. These barriers included poll taxes, literacy tests and requirements to be of "good character," among others. Because lengthy case-by-case litigation was the only enforcement mechanism for these laws, many lawmakers and

proponents of civil rights felt that further action was needed to provide a stronger, more efficient process for ensuring that states were not denying the right on the basis of race or color. The sweeping Voting Rights Act of 1965 was the answer to that call. It allowed direct federal supervision of state elections and "is generally considered the most successful piece of civil rights legislation ever adopted by the United States Congress."

Although Montana was not closely linked to the civil rights struggles of the 1960s, it does have a unique tie to the Voting Rights Act of 1965. Its senior senator at the time, Democrat Mike Mansfield, was Senate majority leader and one of the two co-sponsors of the legislation as it was introduced. He also played a key role in ensuring that the bill made it through committee and several substantive and procedural votes to become law. President Lyndon B. Johnson signed the Voting Rights Act of 1965 on Aug. 6, 1965, after both houses of Congress passed it by large majorities.

Voting Rights Act Provisions

As enacted, the Voting Rights Act banned states from using "any voting standard, practice, or procedure" to deny a citizen the right to vote because of race. Known collectively as Section 2, these provisions applied to all states and did not include an expiration date. The legislation also included special provisions in Section 5 that applied only to certain states, as determined by a formula created in Section 4 of the law.

Congress amended and reauthorized the act in 1982, in part to respond to federal court rulings affecting the application of the Voting Rights Act. With the changes, the key language in Section 2 established that a violation of the section occurred if — based on the "totality of circumstances" — the election process of a state or political subdivision is shown to give members of a racial, ethnic or language minority "less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." The section does not guarantee proportional representation to members of a protected class. Instead, it means they must have equal chance as others to participate in the election process.

Another key section, Section 4, was designed to identify states in which racial discrimination had been more prevalent than in others. The formula in the 1965 law included several elements for determining if the special provisions of Section 5 would apply to a state or other jurisdiction. The formula looked at whether:

- as of Nov. 1, 1964, the state or a political subdivision had a test that would restrict a citizen's opportunity to vote or register to vote; and
- less than 50 percent of the voting age population of a state was registered to vote as of Nov. 1, 1964, or less than 50 percent of the voting age population of a state voted in the general election in November 1964.

Using those elements, seven states were determined to be covered by the special provisions of the Voting Rights Act — Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina and Virginia. In addition, certain counties in Arizona, Hawaii, Idaho and North Carolina also were covered by the Section 5 provisions.

After 1982, Section 4 also contained a "bailout" provision that allows certain covered jurisdictions to be released from Section 5 requirements if they met a number of conditions and a three-judge panel in the U.S. District Court for the District of Columbia approved their release from the requirements.

Section 5 included a provision that a covered jurisdiction may not make any changes to voting procedures until the U.S. Department of Justice or the U.S. District Court for the District of Columbia approved the changes. To obtain approval of any proposed change, the jurisdiction must prove that the change would not result in the denial or abridgement of a person's right to vote based on color or race. Under Section 5, the burden of proof is on the jurisdiction seeking the change, not on the Department of Justice. This procedure is commonly known as "preclearance."

Continued Evolution of the Law

The Voting Rights Act has not remained static over the years. Congress often has updated it in response to U.S. Supreme Court decisions and to changing social and political circumstances. In 1970, Congress reauthorized Section 4 and updated the key date in the coverage formula from November 1964 to November 1968. The update added more states to the coverage, as did changes made in 1975. Although Congress reauthorized Section 4 and Section 5 again in 1982 and 2006, it didn't make changes to the coverage formula, an issue that would come to bear in future legal challenges to the constitutionality of the Voting Rights Act.

After the most recent reauthorization of the Act in 2006, Section 5 applied to nine states in their entirety — Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia. Counties or townships in another five states also were covered. Montana is not and hasn't been covered by Section 5.

In 1975, Congress amended the Voting Rights Act to include language minority groups in its protections. Specifically, the amendment required that certain jurisdictions with substantial numbers of members of a language minority group must provide those voters with election assistance and materials,

such as forms, instructions and ballots, in the minority language. The language minority groups are limited to American Indians, Asian Americans, Alaska Natives and Spanish speakers. Known as Section 203 coverage, the provisions also include a formula to determine which political jurisdictions are subject to them. The provisions apply if the number of voting age citizens that speak the same language in the jurisdiction:

- is more than 10,000, is more than 5 percent of all voting-age citizens, or on an Indian reservation exceeds 5 percent of all reservation residents; and
- the illiteracy rate of the group is more than the overall illiteracy rate for the United States.

After each decennial census, the Census Bureau uses the results to determine which states and jurisdictions are covered. According to the latest determinations from 2011, Montana and its political jurisdictions are not covered by Section 203.

Recent Challenges to the Act's Constitutionality

In 2009, the U.S. Supreme Court considered a challenge to the constitutionality of Section 5 when it decided *Northwest Austin Municipal Utility District Number One v. Holder*. The case involved a utility district in Austin that was covered by Section 5 of the Voting Rights Act. The district filed suit to "bail out" of Section 5 coverage. If it was not allowed to bail out, the utility district argued that Section 5 was unconstitutional.

The court ruled unanimously that the utility district could bail out. It thus avoided reaching a decision on the constitutional question. However, the ruling expressed concerns about the continuing constitutionality of Section 5 and hinted that the court would likely see future litigation about the issue: "More than 40 years ago, this Court concluded that 'exceptional conditions' prevailing in certain parts of the country justified extraordinary legislation otherwise unfamiliar in our federal system. Katzenbach, 383 U.S., at 334. In part due to the success of that legislation, we are now a very different Nation. Whether conditions continue to justify such legislation is a difficult constitutional question we do not answer today."

Four years later in June 2013, the U.S. Supreme Court again tackled the constitutionality of the Voting Rights Act when it ruled in *Shelby County, Alabama v. Holder*. In this case, an Alabama county sought to have the court declare that the coverage formula in Section 4(b) (not the whole section) and Section 5 were unconstitutional. The county also asked the court to permanently prohibit the sections from being enforced. This time, in a 5-4 decision, the U.S. Supreme Court agreed that the coverage formula was unconstitutional. It left Section 5, the preclearance provisions, intact. But left without a formula to determine which states or other jurisdictions were covered, Section 5 was rendered ineffective.

In making its decision, the court noted that the preclearance provisions of the Voting Rights Act initially were authorized only for five years. Reauthorizations by Congress over the years meant preclearance had been in effect for nearly 50 years, so the court felt it necessary to decide if "the Act's extraordinary measures, including its disparate treatment of the States, continue to satisfy constitutional requirements." The court also highlighted the fact that it had warned Congress in 2009 in its decision in *Northwest Austin v. Holder* that the coverage formula was suspect, but the formula was not updated in the intervening years.

In a strongly worded conclusion in *Shelby County*, the court stated: "There is no valid reason to insulate the coverage formula from review merely because it was previously enacted 40 years ago. If Congress had started from scratch in 2006 [the most recent reenactment of the Section 4 and 5 provisions], it plainly could not have enacted the present coverage formula. It would have been irrational for Congress to distinguish between States in such a fundamental way based on 40-year-old data, when today's statistics tell an entirely different story." The opinion made clear the court was not ruling on the constitutionality of Section 2 or Section 5. Instead, it invited Congress to craft a new formula that "speaks to current conditions."

So what happens now? Because Section 5 was left intact by the *Shelby County* ruling, Congress could enact a new formula to determine which states are subject to preclearance. It has not yet done so.

Another option currently being explored and tested in litigation asks federal judges to subject states to Section 5. This process is allowed under Section 3 of the Voting Rights Act. Using this authority, a federal court could require a state found to have violated the 14th or 15th amendments to preclear future changes to election procedures with the court. However, many civil rights advocates and litigators aren't sure if using Section 3 to force states or jurisdictions into Section 5 coverage will be as effective for their purposes as the formula in Section 4 was. They note that this process would shift the burden of proof. Rather than requiring a state or jurisdiction to prove that changes to the election process wouldn't violate the 14th and 15th amendments or the Voting Rights Act, the U.S. Department of Justice, an individual or an organization would have to file suit alleging discrimination. The change would likely result in a pricey, drawn-out process compared with the former preclearance process because of the expensive nature of voting rights litigation, with its army of consultants and mountains of required documentation and proof. In some ways, enforcement of the Voting Rights Act through Section 3 could be similar to the enforcement in place before 1965: violations identified and prosecuted on a case-by-case basis.

Montana and the Voting Rights Act

Montana is no stranger to litigation involving the Voting Rights Act. In the 1980s, 1990s and through the early 2000s, members of several Indian tribes across the state and, in two cases, the U.S. Department of Justice were engaged in Section 2 litigation. Most of the cases involved the use of at-large districts to elect certain candidates, generally county commissioners. In at-large elections, members are elected by their constituency as a whole. For example, in an at-large election for three county commission seats, all voters in the county may vote for candidates for each of the three seats. Four counties were sued over their use of these districts to elect county commissioners, including Big Horn (1986), Blaine (1999), Roosevelt (2000) and Rosebud (2001). The challenge in Big Horn County also included the use of at-large districts to elect school board members in certain districts, as did a challenge filed in Lake County in 2000.

Through trials or agreements reached before trial, all of the counties involved eventually adopted single-member districts for their county and school district elections. In single-member districts, the county or other political entity is divided into geographic districts. Only the voters in the geographic district may vote for candidates from that district.

A lawsuit filed in 1996 challenged the state legislative districts adopted by the Montana Districting and Apportionment Commission in 1993. That lawsuit — *Earl Old Person v. Cooney* — went to trial in 1998. A federal district court judge ruled that the plan did not violate Section 2, but the plaintiffs appealed to the 9th U.S. Circuit Court of Appeals. The appeals court decided in 2000 that although the plan was not adopted with "discriminating purposes" that would violate the Voting Rights Act, the judge made errors in the decision that might have affected the result. A judge appointed to consider the case on remand (after the original judge died), found in 2002 that the plan did not dilute the voting strength of American Indians in violation of the Voting Rights Act. That decision was upheld upon appeal, and the U.S. Supreme Court refused to hear an appeal. However, the redistricting plan adopted by the next redistricting commission included more districts in which Indians made up the majority of the voting-age population than any previous plan: six House districts and three Senate districts.

One test of the new litigation strategy of using Section 3 to require a state or jurisdiction to preclear certain changes with a federal judge is taking place in Montana. In August 2013, the American Civil Liberties Union of Montana sued the Board of Trustees of the Wolf Point School District. The suit alleges that the district allows school board elections to happen in malapportioned election districts that dilute the voting strength of Indian residents. Among other remedies, the lawsuit asks the judge to require the district to submit all redistricting plans or any changes in voting procedures for preclearance under Section 5. The lawsuit is currently pending in federal court in Great Falls; a bench trial is scheduled for March 2014.

The Voting Rights Act is also at play in another active lawsuit in Montana, *Wandering Medicine v. McCulloch*. Members of Indian tribes spread across three Montana reservations are suing Montana Secretary of State Linda McCulloch and county officials in Rosebud, Blaine and Big Horn counties. Those counties are homes to the Crow, Northern Cheyenne and Fort Belknap Indian reservations. The plaintiffs allege that the failure of county officials to provide "satellite offices" where voters may register to vote and may go to cast their absentee ballots in person before the election violates Section 2 of the Voting Rights Act. The suit asks that the counties establish satellite offices in areas of the counties that are distant from the county seats that house the election administrators' offices. The case is currently set for a bench trial in June 2014.

Conclusion

Although the courts, Congress and interested citizens are still debating the meaning and the constitutionality of the Voting Rights Act, the law continues to affect how states structure and conduct their elections, including where and when citizens can register to vote and vote and in what type of districts those elections will occur. Montanans need look no farther than their own state borders to see those discussions play out and to feel the effects of any decisions that are made.

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[1]This discussion and the quote in the final sentence are based on material provided by the U.S. Department of Justice, Civil Rights Division, available at http://www.justice.gov/crt/about/vot/intro/intro.php, last accessed Dec. 9, 2013. 9, 2013.

[2]This paragraph is summarized from a history, "Voting Rights Act of 1965," provided by The Dirkson Congressional Center, available from http://www.congresslink.org/print_basics_histmats_votingrights_contents.htm, last accessed Dec.

[3]"Section 2 of the Voting Rights Act," *U.S. Department of Justice, Civil Rights Division*, available at http://www.justice.gov/crt/about/vot/sec_2/about_sec2.php, last accessed Dec. 9, 2013.

[4]"Section 4 of the Voting Rights Act," *U.S. Department of Justice, Civil Rights Division*, available at http://www.justice.gov/crt/about/vot/misc/sec_4.php, last accessed Dec. 9, 2013.

[5]Ibid

[6]Ibid

[7]"Section 5 Covered Jurisdictions," *U.S. Department of Justice, Civil Rights Division*, available at http://www.justice.gov/crt/about/vot/sec_5/covered.php, last accessed Dec. 9, 2013.

[8]"Section 4 of the Voting Rights Act," *U.S. Department of Justice, Civil Rights Division*, available at http://www.justice.gov/crt/about/vot/misc/sec_4.php, last accessed Dec. 9, 2013.

[9]"Section 5 Covered Jurisdictions," *U.S. Department of Justice, Civil Rights Division*, available at http://www.justice.gov/crt/about/vot/sec_5/covered.php, last accessed Dec. 9, 2013.

[10]This section is summarized from "About Language Minority Voting Rights," *U.S. Department of Justice, Civil Rights Division*, available at http://www.justice.gov/crt/about/vot/sec_203/activ_203.php, last accessed Dec. 9, 2013.

[11]"Voting Rights Act Amendments of 2006, Determinations Under Section 203," *Bureau of the Census, U.S. Department of Commerce*, Federal Register Vol. 7, No. 198, Oct.13, 2011, available from http://www.justice.gov/crt/about/vot/sec_203/2011_notice.pdf, last accessed Dec. 9, 2013.

[12]*Northwest Austin Municipal Utility District No. 1 v. Holder*, 557 U.S. 193 (2009), available from http://www.supremecourt.gov/opinions/08pdf/08-322.pdf, last accessed Dec. 10, 2013.

[13]Justice Clarence Thomas filed a concurring opinion that agreed in part and dissented in part.

[14]*Northwest Austin Municipal Utility District No. 1 v. Holder*, P. 16.

[15]*Shelby County, Alabama, v. Holder*, available from http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf, last accessed Dec. 10, 2013.

[16]Warren Richey, "Voting Rights Act Fallout: Holder Signals Tough Stance on Texas," *Christian Science Monitor*, July 25, 2013, available from http://www.csmonitor.com/USA/Justice/2013/0725/Voting-Rights-Act-fallout-Holder-signals-tough-stance-on-Texas, last accessed Dec. 10, 2013.

[17]*Shelby County, Alabama, v. Holder*, P. 2.

[18]Ibid, Pp. 23-24.

[19]Ibid, P. 24.

[20]"Section 3 of the Voting Rights Act," *U.S. Department of Justice, Civil Rights Division*, available from http://www.justice.gov/crt/about/vot/42usc/subch_ia2.php#anchor_1973a, last accessed Dec. 10, 2013, and Warren Richey, "Voting Rights Act Fallout: Holder Signals Tough Stance on Texas," *Christian Science Monitor*, July 25, 2013, available from http://www.csmonitor.com/USA/Justice/2013/0725/Voting-Rights-Act-fallout-Holder-signals-tough-stance-on-Texas, last accessed Dec. 10, 2013.

[21]Warren Richey, "Voting Rights Act Fallout: Holder Signals Tough Stance on Texas," *Christian Science Monitor*, July 25, 2013, available from http://www.csmonitor.com/USA/Justice/2013/0725/Voting-Rights-Act-fallout-Holder-signals-tough-stance-on-Texas, last accessed Dec. 10, 2013, and Jake Grovum, "How Far Will Justice Department Go Over Voting Rights," *The Pew Charitable Trusts*, Aug. 2, 2013, available from http://www.pewstates.org/projects/stateline/headlines/how-far-will-justice-department-go-over-voting-rights-85899494533, last accessed Dec. 10, 2013.

[22]Sources for this summary include: "Voting Rights Litigation," *U.S. Department of Justice, Civil Rights Division*, available from http://www.justice.gov/crt/about/vot/litigation/caselist.php#sec2cases and Janine Pease, "Guest Opinion: Voting-Rights Fight Alive in Indian County," *Billings Gazette*, June 10, 2005, available from http://billingsgazette.com/news/opinion/guest-opinion-voting-rights-fight-alive-in-indian-country/article_8767f144-a3df-5668-8e24-1f9553a225b6.html. Both last accessed Dec. 10, 2013.

[23]Summary based on Susan Byorth Fox, "Final Outcome of the 1990 Districting and Apportionment Plan," *Legislative Services Division*, Nov. 7, 2003, available from http://leg.mt.gov/content/committees/interim/2001_2002/dist_apport/FINAL13D&A.pdf, last accessed Dec. 10, 2013.

[24]Plaintiffs' Complaint, *Jackson v. Board of Trustees of Wolf Point, Montana*, available from http://www.aclumontana.org/images/stories/documents/litigation/wolfpoint08072013.pdf, last accessed Dec. 10, 2013.

[25]*Wandering Medicine v. McCulloch*, CV 12-135-BLG, complaint available from http://turtletalk.files.wordpress.com/2012/10/wandering-medicine-complaint.pdf, last accessed Dec. 10, 2013.

[26]John S. Adams, "Hearing Set for Indian Voting Lawsuit," *Great Falls Tribune*, Nov. 29, 2013, available from http://www.greatfallstribune.com/article/20131129/NEWS01/311290025/, last accessed Dec. 10, 2013.