

Performance Audit Report

North Dakota Veterans Affairs Oversight Structure

Report No. 3039-17(c)

March 28, 2018

State Auditor
Joshua C. Gallion

Office of the State Auditor
Division of Performance Audit

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March 28, 2018

Honorable Doug Burgum, Governor
Members of the North Dakota Legislative Assembly
Dean Overby, Chairman, Administrative Committee on Veterans Affairs
Richard Belling, Chairman, Department of Veterans Affairs and Budget Subcommittee
Lonnie Wangen, Commissioner, Department of Veterans Affairs

This report contains the results of a performance audit on aspects of the Administrative Committee on Veterans Affairs and the Department of Veterans Affairs. The audit was conducted under the authority granted within North Dakota Century Code Chapter 54-10, which allows the State Auditor to perform performance audits of state agencies as determined necessary by the State Auditor or the Legislative Audit and Fiscal Review Committee.

The purpose of this report is to communicate the results of our audit with the intent to facilitate decision making by parties with responsibility to oversee veterans' affairs in North Dakota. The information in this report is based on our observations of compiled information obtained from surveys and interviews unless specifically identified as work done by the Office of the State Auditor. It is evident that certain information obtained was from individuals who may have a biased opinion. Thus, the Office of the State Auditor will not be providing any recommendations and this information is not meant to express the position of the Office of the State Auditor.

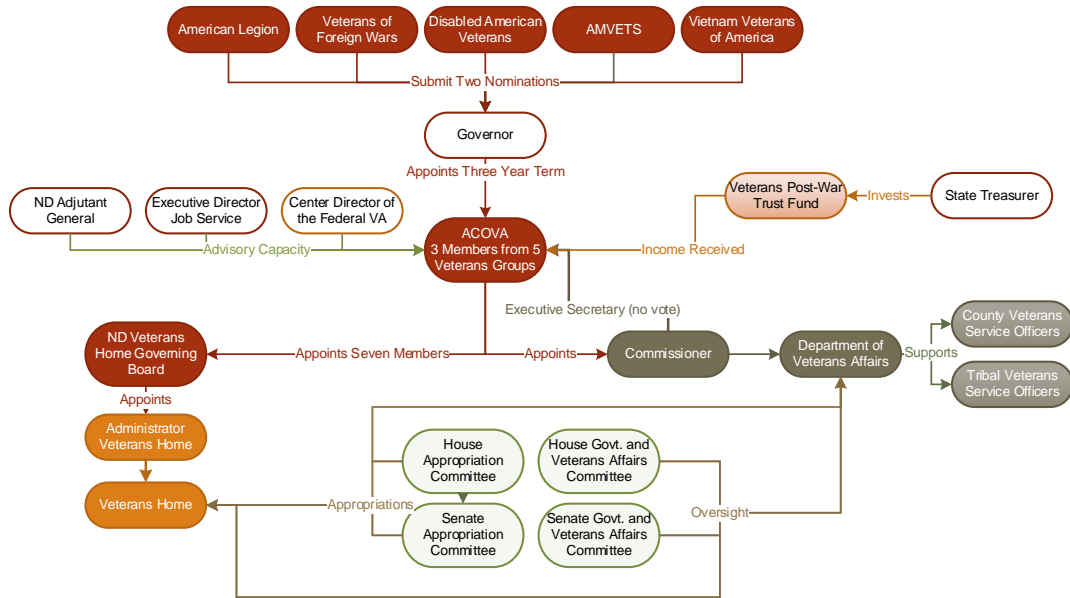
Respectfully Submitted,

/S/

Joshua C. Gallion
State Auditor

Veterans Oversight Structure Report Highlights

Overview of Structure and Concerns



<u>Nominating Organizations</u>	<u>ACOVA</u>	<u>State Treasurer</u>	<u>Veterans Affairs</u>	<u>County/Tribal VSO</u>	<u>Overall</u>
<ul style="list-style-type: none"> • Aging Membership and Struggle to Recruit Newer Veterans • Nominating Process Is Inconsistent and Nominees Lack Interest in Serving • Other Veterans Service Organizations Are Not Eligible 	<ul style="list-style-type: none"> • Sustainability Concern • Broaden Veteran Representation • Governing Members and Qualifications 	<ul style="list-style-type: none"> • Investment Strategy Input • 3rd Party Investment Management Fees • Strained Working Relationship 	<ul style="list-style-type: none"> • Duplication of Services • Budget Cuts Impact on Ability to Provide Assistance • Open Records Requests • Information Provided to Legislators 	<ul style="list-style-type: none"> • Limited Requirements • Lack of Oversight • Lack of Cooperation 	<ul style="list-style-type: none"> • Lack of a Unified Message • Infighting Among Stakeholders is Counterproductive

Legend



Veterans Affairs' Oversight Structure

Purpose and Authority of the Audit

The performance audit of the Administrative Committee on Veterans Affairs and the Department of Veterans Affairs was conducted at the request of the Legislative Audit and Fiscal Review Committee by the Office of the State Auditor pursuant to authority within North Dakota Century Code (NDCC) Chapter 54-10.

Performance audits are defined as engagements that provide assurance or conclusions based on an evaluation of sufficient, appropriate evidence against stated criteria, such as specific performance requirements, measures, or defined business practices. Performance audits provide objective analysis so management and those charged with governance and oversight can use the information to improve performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability. The purpose of this report is to provide the results of our audit to facilitate decision making by parties with responsibility to oversee the veterans affairs in North Dakota.

Objective of the Audit

The Office of the State Auditor established two objectives for this performance audit of the Administrative Committee on Veterans Affairs and the Department of Veterans Affairs. The objectives were:

“Are there opportunities to improve the way the Administrative Committee on Veterans Affairs and the Department of Veterans Affairs carry out their duties and responsibilities?”

“How does the organizational structure of the veterans affairs in North Dakota compare to other states?”

Scope and Methodology

The Office of the State Auditor conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our conclusions based on the audit objectives.

Surveys and interviews were conducted with stakeholders involved with providing assistance to North Dakota veterans to obtain comments, concerns, and suggestions about the Administrative Committee on Veterans Affairs and the Department of Veterans Affairs. These surveys and interviews were conducted under an agreement of confidentiality authorized by NDCC Section 54-10-26. Compiled information from data and/or information obtained was not considered confidential as long as the anonymity and welfare of the respondents was still protected. See Appendix A for County and Tribal Veterans Service Officer survey results. The governance structures for veterans' affairs for other states and similar in-state entities were also reviewed.

Veterans Affairs' Oversight Structure

Nominating Organizations

Background Information

The five nominating organizations listed in NDCC Section 37-18.1-01 include:

- Veterans of Foreign Wars (est. 1899)
- The American Legion (est. 1919)
- Disabled American Veterans (est. 1920)
- Veterans of World War II, Korea, and Vietnam (AMVETS) (est. 1944)
- Vietnam Veterans of American (est. 1978)

Each nominating organization submits a list containing the names of two veterans to the Governor annually for appointment or reappointment as voting members of the Administrative Committee on Veterans Affairs (ACOVA).

Aging Membership and Struggle to Recruit Newer Veterans

The five veteran service organizations that nominate members to the ACOVA are long-standing organizations. These organizations consist of aging memberships and could be viewed as representing an older generation of veterans. Certain stakeholders indicated that it is a struggle to recruit newer veterans to join these long-standing organizations.

Nominating Process Is Inconsistent and Nominees Lack Interest in Serving

The processes for nominating members to ACOVA are inconsistent among the nominating organizations. Our review of nomination files showed some nominations were just a letter or email with two names while other nominations included applications and/or resumes for the nominees. Our review also found some nominations contained notes that one of the two nominees were not interested in serving on the ACOVA. Certain stakeholders also expressed it is sometimes challenging to find individuals who want to serve on ACOVA.

Other Veterans Service Organizations Are Not Eligible

The more recently established veteran service organizations are attracting and recruiting the newer generation of veterans. These organizations are not eligible to nominate members to the ACOVA. Comments identified in ACOVA meeting minutes suggest the Governor wants representatives from other organizations involved as he is looking for younger people to be included on the ACOVA. The ACOVA has also discussed getting more recently established veterans service organizations involved in the meetings to include the newer generation of veterans.

Veterans Affairs' Oversight Structure

Administrative Committee on Veterans Affairs (ACOVA)

Background Information

The Administrative Committee on Veterans Affairs (ACOVA) is established by NDCC Chapter 37-18.1. The ACOVA is responsible for the organization, policy, and general administration of all veterans affairs in North Dakota. The ACOVA is comprised of three ex officio nonvoting members and three voting members from each of the five major veterans service organizations in the state.

Sustainability Concern

The current organizational structure is not considered sustainable into the future without the involvement of the newer generation of veterans. This is due, in part, to the observations noted above related to the nominating organizations.

Broaden Veteran Representation

ACOVA should look for diversity in gender, age, race, length of military service, branch of military service, etc. when seeking new members. The perception is a lack of diversification may mean that the needs of upcoming generations of veterans are not being met such as post-traumatic stress disorder, suicide, and other serious health issues.

Governing Members and Qualifications

Concerns were raised about the size of the ACOVA. Fifteen members from five different makes it difficult to function as a unified group. The Department of Veterans Affairs, which is most directly managed by ACOVA, is authorized seven full-time equivalent positions for a nearly two to one ratio with oversight of the organization. In addition, the requirements to serve on the ACOVA are that the individual be a veteran who is also a member of one of the five veterans service organizations. Certain stakeholders indicated the ACOVA has a lack of expertise, there are no qualifications for members, and many of them may have limited leadership or relevant professional experience.

Veterans Affairs' Oversight Structure

State Treasurer

Background Information

The State Treasurer has constitutional authority to invest the Veterans' Postwar Trust Fund. According to Article X, Section 25, of the Constitution, the State Treasurer has the full authority to invest the fund in the same manner as the State Investment Board. All income received from investments is to be used for programs which must be of benefit and service to veterans. Such income is appropriated to the ACOVA on a continuing basis for expenditure upon those programs selected at their discretion.

Investment Strategy Input

The ACOVA would like more input into investment strategy of the Veterans' Postwar Trust Fund to help balance between growing the fund and generating income for current programs. ACOVA feels they lack information on how the trust fund is invested. The State Treasurer is not viewed as being receptive to feedback on investment goals or considering the needs of ACOVA when managing the fund.

3rd Party Investment Management Fees

There are concerns with the fees paid to third parties to manage the fund. These fees are perceived as reducing the funds available to the ACOVA. Stakeholders question whether investing with the State Investment Board could lower the management fees and increase return on investment.

Strained Working Relationship

These issues have led to a strained working relationship between the ACOVA and the Office of the State Treasurer.

Veterans Affairs' Oversight Structure

Department of Veterans Affairs

Background Information

The Department of Veterans Affairs is established in North Dakota Century Code (NDCC) Chapter 37-18 under the supervision and control of the Commissioner of Veterans Affairs. According to NDCC Section 37-18-04, it is the duty of the Commissioner to:

- Coordinate agencies or instrumentalities of the state set up to render services and benefits to returning veterans.
- Have charge of and implement programs and benefits authorized by statute.
- Assist or represent veterans in processing claims.
- Advise and assist veterans in taking advantage of the Servicemen's Readjustment Act of 1944, or any similar or related measures afforded by the federal government.
- Provide counties with training of County Veterans Service Officers.
- Provide County Veterans Service Officers with educational materials.
- Assist County Veterans Service Officers in the performance of their duties.
- Disseminate information.
- Do any and all things necessary and proper to carrying out NDCC Chapter 37-18.

Duplication of Services

The North Dakota Department of Veterans Affairs' National Service Officers (NSO) can work directly with veterans and their dependents. There were concerns that this leads to duplication of services performed by County/Tribal Veterans Service Officers and vice versa.

Budget Cuts Impact on Ability to Provide Assistance

The recent budget cuts to the Department of Veterans Affairs caused concern that the training provided to County/Tribal Veterans Service Officers would be reduced. There were also concerns that the staffing at the Department of Veterans Affairs was insufficient to support the County/Tribal Veterans Service Officers resulting in delays in processing grant and loan claims as well as outdated information on the Department of Veterans Affairs' website.

Open Records Requests

The amount of staff time spent responding to open records requests from a small group of stakeholders was counterproductive and took away from their normal duties. The review of information also identified the Department spent staff time making open records requests. At times, these open records requests went back and forth between parties.

Information Provided to Legislators

Testimony showed certain legislators had concerns with the timeliness and accuracy of the information being provided.

Veterans Affairs' Oversight Structure

County/Tribal Veterans Service Officers

Background Information

County Veterans Service Officers are a requirement of NDCC Section 37-14-18. The Board of County Commissioners of each county of the state of North Dakota are required to appoint and employ a County Veterans Service Officer. The appointment must be made with the prior advice of the Commissioner of Veterans Affairs. All County Veterans Service Officers are required to be accredited by the National Association of County Veterans Service Officers. According to the section, it is the duty of the County Veterans Service Officer to:

- Become acquainted with state and federal laws enacted for the benefit of returning serviceman and servicewomen to assist such returning members of the armed forces in the presentation, proof, and establishment of such claims, privileges, and rights as they have.
- Actively cooperate with and to coordinate the activities of the state and federal agencies with the county which the officer services to facilitate their operation and ensure promptness in the solution of the problems concerned with the re-establishment of returning members

Limited Requirements

County/Tribal Veterans Service Officers are required to meet accreditation requirements and each county/tribe must have a Veterans Service Officer. There are no other guidelines, minimum qualifications, or requirements for County/Tribal Veterans Service Officers. We identified certain County/Tribal Veterans Service Officers have limited office hours (four to eight hours a week). There were concerns that County/Tribal Veterans Service Officers don't respond the same day to calls.

Lack of Oversight

County/Tribal Veterans Service Officers are local resources to assist veterans in obtaining federal and state benefits. The County/Tribal Veterans Service Officers and staff are employees of their respective county or tribe. During the 2005 Legislative Session a change was made to NDCC Section 37-18-04 removing the Commissioner of Veterans Affairs' responsibilities for supervising, advising and directing the work of the County/Tribal Veterans Service Officers.

Lack of Cooperation

ACOVA meetings minutes and letters/testimony to state officials and the Legislature has shown considerable disagreement with the Department of Veterans Affairs by certain County/Tribal Veterans Service Officers.

Veterans Affairs' Oversight Structure

Overall

Lack of a Unified Message

The five veterans service organizations that nominate members to ACOVA also have three different members serving on the North Dakota Veterans Coordinating Council (NDVCC). The NDVCC is a nonprofit corporation whose duties include monitoring legislation affecting veterans and their dependents. ACOVA and NDVCC have not always agreed on funding and budget priorities. Certain County/Tribal Veterans Service Officers have also not always agreed with the funding and budget priorities of ACOVA. We even identified a veteran's representative belonging to multiple organizations testified for and against the same legislation making it difficult to determine what the veteran's position was regarding the legislation.

A stakeholder expressed the need for increased communication and collaboration among the various parties who have a stake in veterans affairs to develop a more unified message and common initiatives before testifying to the Legislature. It's evident that improved communication, listening to understand, and constructive collaboration could assist those charged with providing veteran services to maximize the resources available, reducing the duplication of efforts, and fill the gaps to better serve North Dakota veterans.

Infighting Among Stakeholders is Counterproductive

In addition to disagreements related to funding and budget priorities, there are other actions indicative of infighting amongst stakeholders. Examples identified include:

- Numerous open records requests
- Disapproval letters sent
- Meeting minutes reflecting heated discussions
- Law suits and other retaliatory actions

Stakeholder actions have also led to others being reprimanded and/or terminated. This infighting can be perceived as counterproductive to serving veterans.

Veterans Affairs' Oversight Structure

State Auditor's Comparison to Other States

Compiled information about the governance structure of other states' veterans affairs:

- Thirty-eight states have the head of the veterans' agency appointed by the governor or in combination with the governor
- Thirty-four states have the board or commission appointed by the governor or in combination with the governor
- Thirty-one states have a board or commission serve in an advisory capacity over the veterans' agency
- Thirteen states (including ND) have a board or commission serve in a governance capacity over the veterans' agency
- Six states did not appear to have a board or commission over the veterans' agency

Veterans Affairs' Oversight Structure

Other North Dakota Governance Structures

The composition of the ACOVA and the North Dakota Indian Affairs Commission (NDIAC) were compared. Both deal with matters of public interest and importance to Veterans and Indians, respectively.

- ACOVA – three ex officio nonvoting members and fifteen voting members. Voting members consist of three members from each of the five main veteran service organizations in ND. The Governor appoints the voting members from nominees (who qualify as veterans) submitted by the veteran service organizations. ACOVA appoints the Commissioner of Veterans Affairs.
- NDIAC – nine voting members consisting of the Governor, three at large members appointed by the Governor (two of whom must be of Indian descent, must be enrolled members of a Tribe, and must be current voting residents of ND), and the chairperson (or their designee) of the five federally recognized Tribes located at least partially within in ND. The Governor appoints the Executive Director of the NDIAC.

Veterans Affairs' Oversight Structure

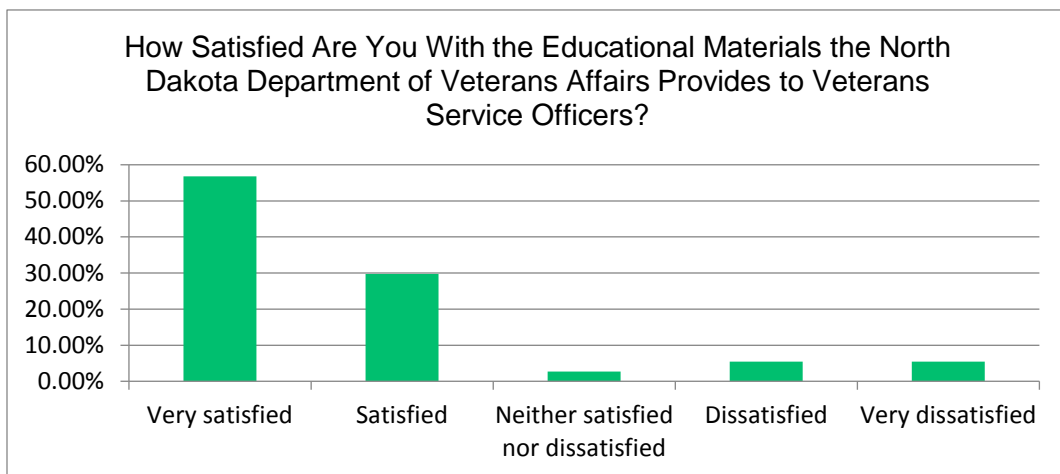
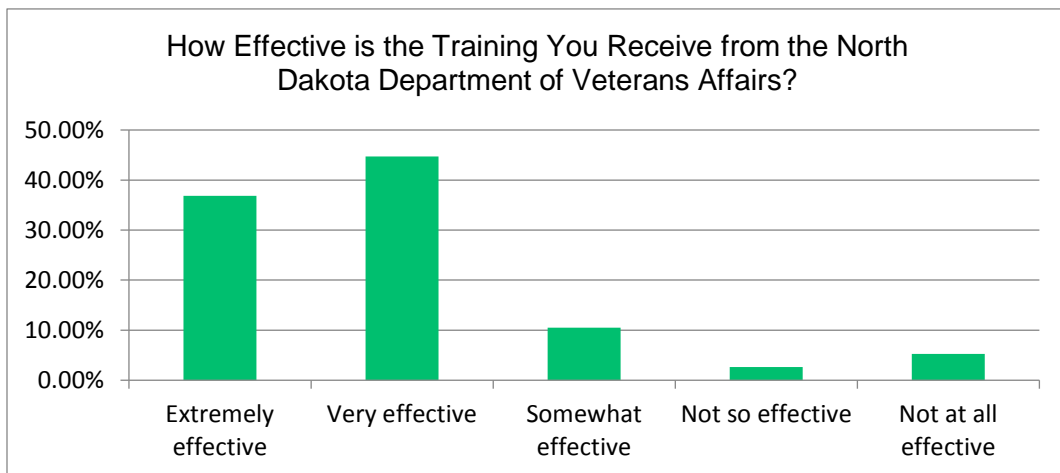
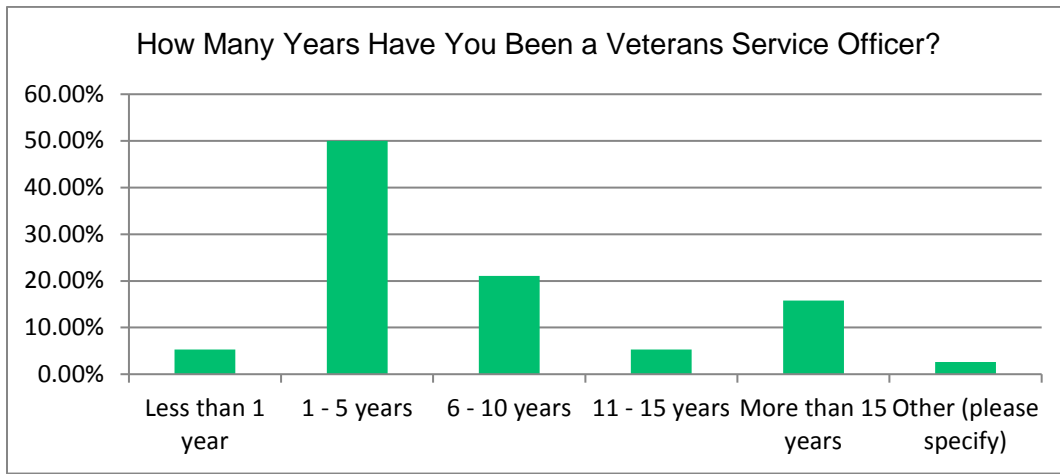
Report of the North Dakota Legislative Council

The Report of the North Dakota Legislative Council prepared for the 61st Legislative Assembly (2009) contained certain Government Services Committee recommendations related to the Department of Veterans Affairs' governance structure which were included in House Bill 1057. However, the following recommendations failed to pass:

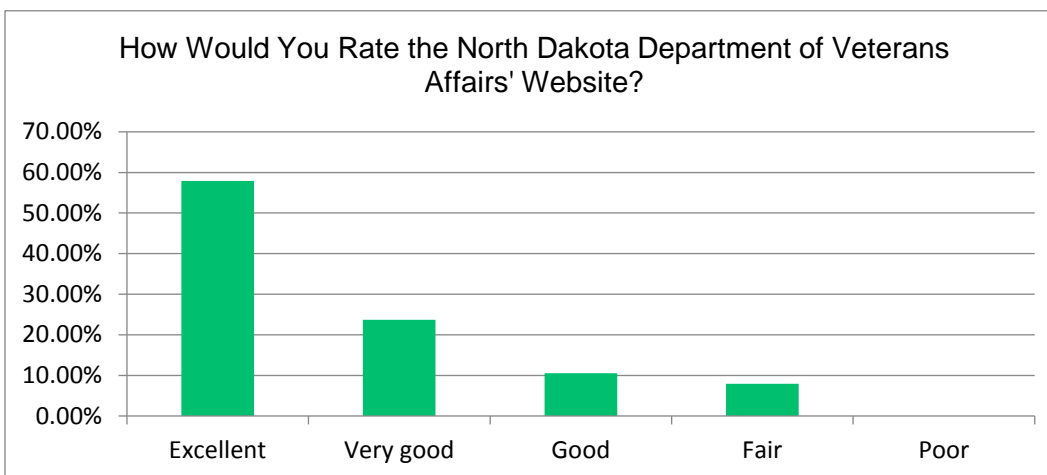
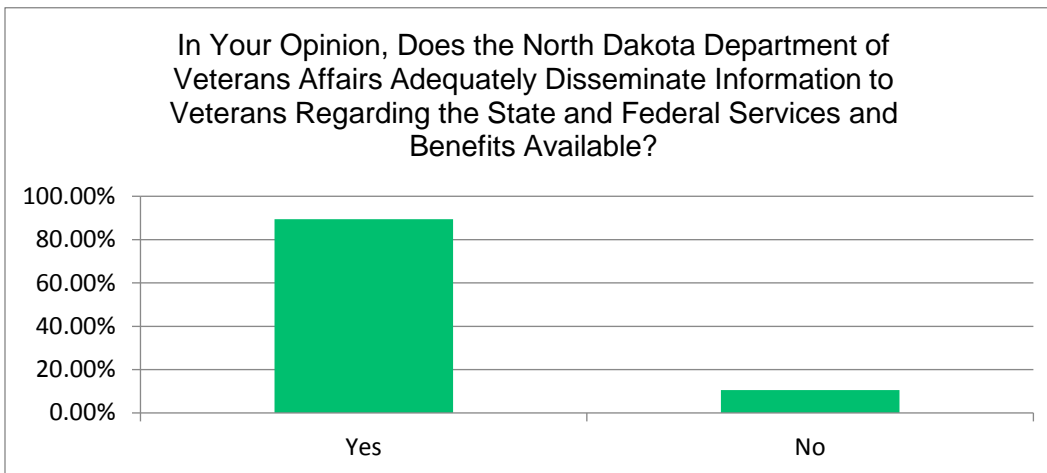
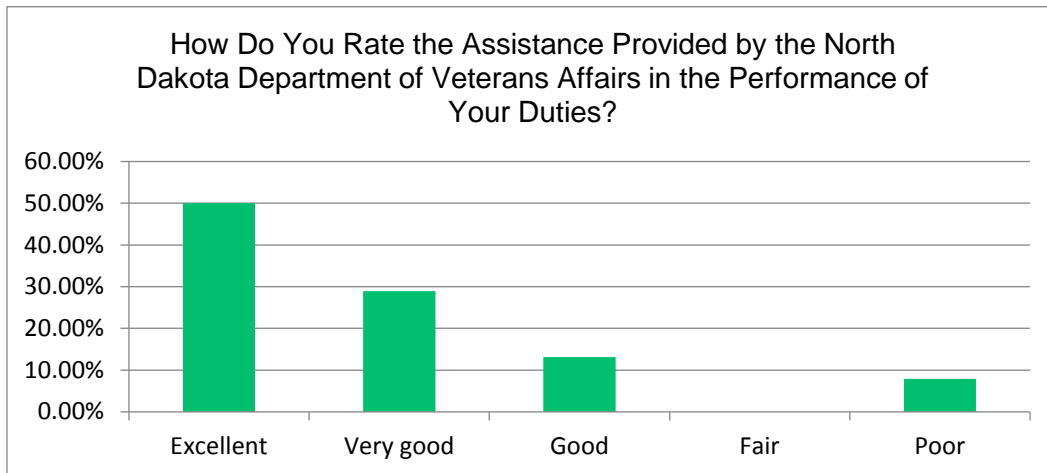
- Reduce the size of the ACOVA from 15 individuals to 7 individuals with the Commissioner of Veterans Affairs serving as the chairman of the committee.
- Revise the powers and duties of the ACOVA to remove the supervision of the Department of Veterans Affairs.
- Provide that the Commissioner of Veterans Affairs be appointed by the Governor.

Appendix A – County/Tribal Veterans Service Officer Survey Results

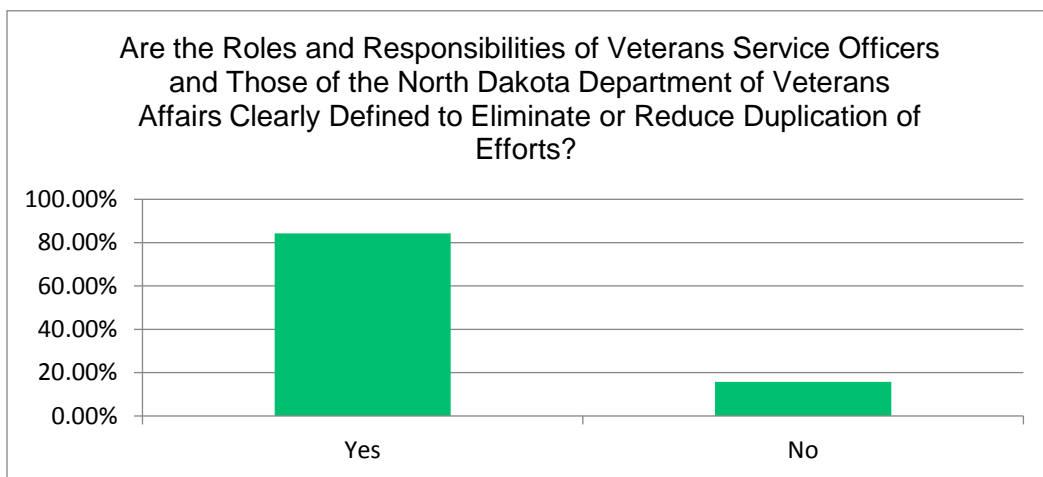
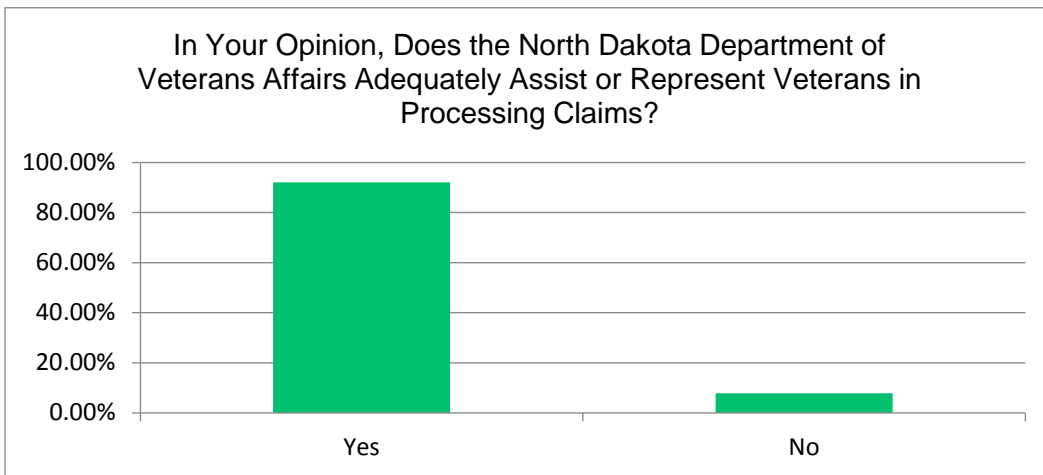
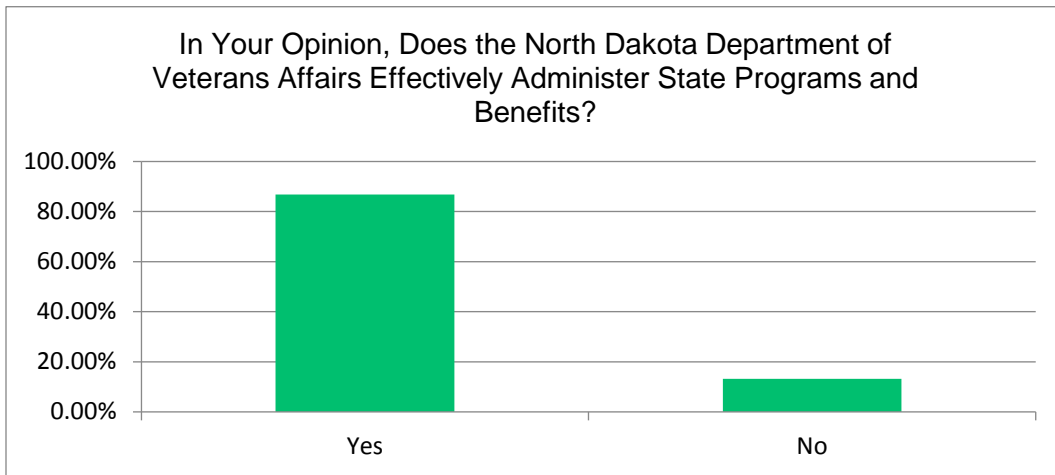
A survey was sent to 53 County and Tribal Veterans Service Officers and 38 responded. The following charts provide the compilation of responses to the multiple-choice questions.



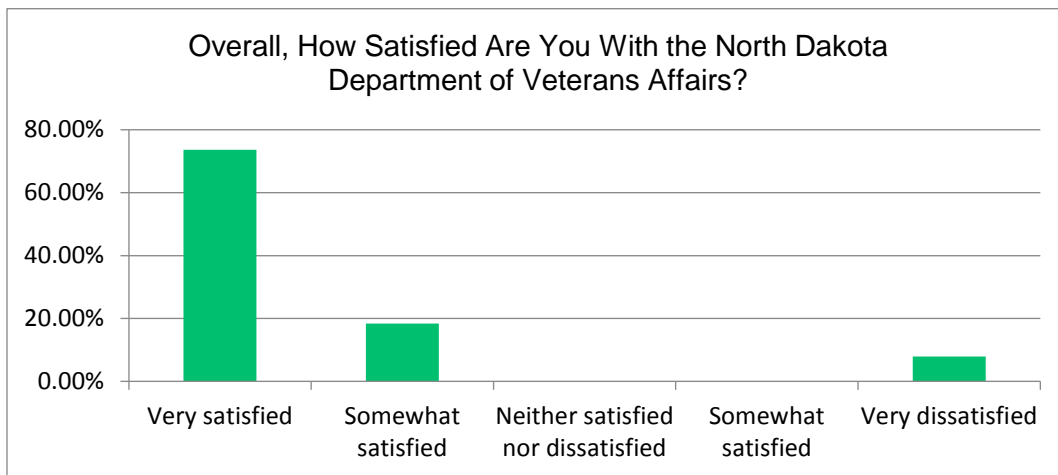
Appendix A – County/Tribal Veterans Service Officer Survey Results



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Appendix A – County/Tribal Veterans Service Officer Survey Results



The following open-ended questions were also part of the survey:

- Do you have any suggestions on how the North Dakota Department of Veterans Affairs could improve the effectiveness of the training they provide to Veterans Service Officers?
- Do you have any suggestions on how the North Dakota Department of Veterans Affairs could improve the educational materials they provide to Veterans Service Officers?
- Do you have any suggestions on how the North Dakota Department of Veterans Affairs could better assist Veterans Service Officers in the performance of their duties?
- What suggestions do you have for improving how the North Dakota Department of Veterans Affairs disseminates information to veterans?
- What suggestions do you have for improving the North Dakota Department of Veterans Affairs website?
- What suggestions do you have for improving how the North Dakota Department of Veterans Affairs administers state programs and benefits?
- What suggestions do you have for improving how the North Dakota Department of Veterans Affairs assists or represents veterans in processing claims?
- What could the North Dakota Department of Veterans Affairs do to increase veteran participation in service and benefit programs?
- Do you have any other comments, suggestions, or concerns related to the North Dakota Department of Veterans Affairs?
- Do you have any comments, suggestions, or concerns related to the Administrative Committee on Veterans Affairs?