



THE INTERIM

September 2011

A monthly newsletter of the Montana Legislative Branch

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The Interim, along with up-to-date information about interim committees, is also available on the Legislative Branch website at leg.mt.gov.

Legislative Audit Division Earns National Award

The National Legislative Program Evaluations Society recently presented an Impact Award to the Legislative Audit Division for a 2009 performance audit entitled “State Vehicle Fleet Management.”

The audit found state agencies lack important management information about their vehicles and that agencies have opportunities to decrease fleet costs. Issues raised by the audit — including the difficulties of getting an exact count of vehicles in the state fleet — was subject to statewide media coverage. The audit was also included in Government Fleet News. Staff members Lisa Blanford, Ross Johnson, and Kent Wilcox performed the audit.

NLPES Impact Awards are given to states that released a report in 2009 or 2010 that had two or more of the following documented policy impacts:

- dollar savings from implementing audit recommendations;
- program improvements as a result of implementing audit recommendations;
- impacts from the Legislature’s perspective;
- impacts from the public’s perspective;
- impacts from other organizations’ perspective.

NLPES honors program evaluators and performance auditors in four categories: Excellence in Evaluation, Excellence in Research Methods, Outstanding Achievement, and Policy Impact. A list of award winners is available by podcast at ncl.org (look for the “Legislative Staff” tab, then click on “Performance Evaluation”).

Children & Families Committee Works on Childhood Hunger, Medicaid

Members of the Children, Families, Health, and Human Services Interim Committee will learn in September about state programs and local efforts designed to provide food to children in need, as they begin work on the House Joint Resolution 8 study of childhood hunger.

As part of their learning process, members will have lunch at Jefferson Elementary School in Helena to talk with school officials and

students about what children eat for lunch during the school week.

The committee will also spend time on Medicaid and the implementation of Senate Bill 423, which revised the state's laws regarding the use of marijuana for certain medical conditions.

The committee will devote a considerable amount of time to the HJR8 study, however, in keeping with its decision in June, it will conduct the study during the first half of the interim. At the September meeting, three panels of speakers will discuss:

- the state-run programs that either provide food directly to individuals or financial assistance that can be used to buy food;
- programs operated by local groups that serve children of all ages and that fill in food gaps that may occur when children are not in school; and
- some of the reasons why children are going hungry.

To kick off its monitoring of the state Medicaid program, committee members will hear from Laura Tobler and Melissa Hansen of the National Conference of State Legislatures about innovations in other states' Medicaid programs. They will also discuss national trends and legislation that will or may affect state Medicaid programs. Anna Whiting Sorrell, director of the Department of Public Health and Human Services, will discuss Montana's Medicaid program.

Committee members also will hear from DPHHS about the agency's implementation of SB 423, as part of its ongoing responsibility to monitor how the agency is putting the law into effect. Kate Cholewa of the Montana Cannabis Industry Association will offer a perspective on how changes in the law have affected patients and providers.

The committee will meet at 9 a.m. on Sept. 19 in Room 137 of the Capitol.

The meeting agenda is available on the committee's webpage, at www.leg.mt.gov/cfhhs. Other meeting materials will be posted as they become available. For more information about the committee, contact Sue O'Connell at 406-444-3597 or soconnell@mt.gov.

Redistricting Panel to Prepare Maps, Hold Hearings

The Districting and Apportionment Commission decided in July to hold hearings in the spring and summer of 2012 on draft maps for new legislative districts. This fall, as part of map preparation, commission staff will travel to counties across the state to provide information about the commis-

sion and to gather ideas for new boundaries. Although staff cannot visit every county in the state, they do hope to visit enough counties to obtain a good cross-section of Montana's diversity.

Even if staff doesn't visit your area, you can still provide written comments and attend the commission's public hearings in 2012. Commissioners encourage interested individuals and organizations to provide comments. All written comments will be distributed to each commissioner and become part of the official record. More important, your comments give the commissioners a local view that they can use when developing and evaluating maps.

Send comments to Montana Districting and Apportionment Commission, Legislative Services Division, PO Box 201706, Helena, MT 59620-1706; by email to redistricting@mt.gov; or by fax to 406-444-3036.

When providing comments, remember that the commissioners must follow state and federal laws pertaining to redistricting. Their mandatory districting criteria follow those laws, while their discretionary criteria are traditional redistricting principles selected by the commission to provide additional guidance on where to draw new lines. The criteria and information about providing comments are available on the commission's webpage at leg.mt.gov/districting.

You can sign up to receive email updates about the commission on its webpage. Electronic updates are the best way to learn about commission activities and redistricting hearings in your area.

Staff will be contacting local officials before visiting an area. Interested parties can contact staff with questions, concerns, or to find out if or when a visit is planned for an area. Rachel Weiss can be reached at rweiss@mt.gov or 406-444-5367 and Joe Kolman at jkolman@mt.gov or 406-444-9280.

Economic Affairs Committee

The Economic Affairs Committee met Aug. 23-24 and is scheduled to meet Oct. 5-6. Coverage of the August meeting and a preview of the October meeting will appear in the next issue of the newsletter. Audio and video recordings of the August meeting are on the committee webpage at leg.mt.gov/eaic. For more information, contact Pat Murdo, committee staff, at 406-444-3594 or pmurdo@mt.gov.

Education & Local Government to Explore a Variety of Topics in September

The Education and Local Government Interim Committee will meet Sept. 15-16, beginning at 9 a.m. in Room 102 of the Capitol. Agenda items for the day-and-a-half meeting run the gamut from local land use to school finance.

The committee's House Joint Resolution 39 study, examining subdivision for lease or rent statutes and their application by local jurisdictions is the first agenda item out of the gate. Committee staff and staff from the Department of Commerce's Community Technical Assistance Program plan to recount the legislative history and litigation history surrounding subdivision for lease or rent.

A representative from the Disaster and Emergency Services Division will brief members on how communities are dealing with flood damage and on local infrastructure needs.

The state historic preservation officer will describe the process in which the Historical Society is engaging with other state agencies to standardize agency reporting of heritage properties to the Preservation Review Board as required under 22-3-423, MCA (Senate Bill 3, 2011).

The meeting's education track includes background information and public comment on the K-12 performance-based funding study (Senate Joint Resolution 28), the recent developments between the Superintendent of Public Instruction and the U.S. Department of Education on the No Child Left Behind requirements and waiver, and the Office of Public Instruction's data systems.

On Sept. 16, committee staff and Legislative Fiscal Division staff will begin the school funding training that ELG incorporated into its interim work plan in June. At least two hours of each meeting is set aside for members to study the mechanics of school funding, the litigation history, and how state funding and policy have evolved over time. The training is an effort to prepare legislators and staff for compliance with 20-9-309(5), MCA, which reads:

(5) At least every 10 years following April 7, 2005, the legislature shall:

(a) authorize a study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools; and

(b) if necessary, incorporate the results of those assessments into the state's funding formula.

Friday's agenda also includes a visit with members of the Montana School Boards Association and a presentation from the Certification Standards and Practices Advisory Council. CSPAC is attached to the Board of Public Education, and a review of its purpose and function is part of the committee's compliance with House Bill 142, which requires interim committees to examine statutorily-created advisory councils.

For more information about ELG, contact Leanne Kurtz, committee staff, at 406-444-3593 or lekurtz@mt.gov or visit the committee's webpage at leg.mt.gov/elgic.

One-Call Laws on Energy Panel's Agenda

The Energy and Telecommunications Interim Committee will dig into a review of Montana's one-call laws beginning at 8:30 a.m., Friday, Sept. 16 in Room 172 of the Capitol.

The effectiveness of Montana's underground facility damage prevention program, better known as "one-call" or "call before you dig", will be the focus of the September meeting. The Pipeline and Hazardous Materials Safety Administration is developing new federal rules to encourage states to strengthen one-call laws. As pressure from the federal government to seek reform builds, ETIC members agreed to dedicate a portion of their time to examining enforcement provisions of the program. Federal and state regulators will discuss how Montana's one-call law works and aspects of the law that may be inadequate.

The committee has asked program stakeholders to work together on enforcement questions and to report to the committee next January. Committee members indicated they would like stakeholders to reach a consensus on how best to craft legislation to improve Montana's one-call program.

The ETIC will also learn about new rules regarding hydraulic fracturing. The Montana Board of Oil and Gas Conservation has developed rules requiring disclosure of chemicals used in hydraulic fracturing, or fracing, a process used in deep-well oil and gas drilling. The rules provide some exceptions.

The Department of Environmental Quality will discuss the implementation of Senate Bill 206, enacted last session. The legislation revises the Major Facility Siting Act to require DEQ to examine a 1-mile-wide facility siting corridor along a facility route when conducting a review in accordance with the Montana Environmental Policy Act. The law exempts siting modifications within the facility siting corridor from MEPA and requires facilities to be sited in federally designated energy corridors when compatible with other siting and reliability requirements.

The Northwest Power and Conservation Council and the Public Service Commission will provide the committee with updates on their work.

Additional information on the ETIC is available at leg.mt.gov/etic, or contact Sonja Nowakowski at snowakowski@mt.gov or at 406-444-3078.

EQC Studies State Parks, Recreation, Heritage Programs

The Environmental Quality Council meets in Helena Sept. 14-15 to discuss the first installment of the House Joint Resolution 32 study results of state parks, outdoor recreation, and heritage resource programs. The EQC will also take the

first step toward meeting the goals of House Bill 142, which requires all interim committees to review statutorily mandated agency reports and statutorily created agency advisory councils. The legislation directs committees to make recommendations to the next Legislature on whether the reports and councils should be retained or eliminated.

HJR 32 grew primarily out of ongoing discussions about the solvency and management of Montana's state parks system. The Legislative Finance Committee reviewed the system last interim but did not propose legislation. At the request of the Department of Fish, Wildlife, and Parks, the 2011 Legislature passed Senate Bill 43, revising the state's list of primitive parks and the types of improvements that may be made at those sites. The Legislature also approved House Bill 370, which increases the optional light motor vehicle registration fee used for operation and maintenance of state parks and state-owned facilities at Virginia and Nevada cities.

HB 628, introduced last session, would have consolidated the administration of state parks and outdoor recreation and heritage programs under the Department of Commerce with oversight by a citizen board. Although the bill did not pass, it provoked discussion about improving management and coordination of these programs.

That discussion led to the passage of HJR 32. The EQC will review Montana's existing state parks, outdoor recreation, and heritage resource programs. A summary of those programs and of past legislative reports and audits related to those programs will be presented in September.

The EQC will also begin work on HB 142 by reviewing the following statutorily required agency reports:

- Clark Fork River Basin Task Force report, Department of Natural Resources and Conservation (85-2-350, MCA)
- Coal lease jobs report, Department of Labor and Industry (HB 533, 2011 session)
- Numeric nutrient standards report, Department of Environmental Quality (75-5-313, MCA)
- Maintenance account report, DFWP (87-1-230, MCA)

Overall, EQC must review 16 agency reports and eight advisory councils. A list of reports and councils under review can be found on the EQC webpage; click on HB 142 under "Assigned Studies and Statutory Duties."

Meeting materials are available at leg.mt.gov/eqc. The agenda for the Sept. 14-15 meeting will be posted at least 10 days in advance. The committee will meet in Room 172 of the Capitol.

Questions and comments about the EQC may be directed to EQC staff: Joe Kolman, 406-444-9280 or jkolman@mt.gov or Hope Stockwell, 406-444-1640 or hstockwell@mt.gov.

Legislative Council to Work on Improving Legislative Process

The Legislative Council is meeting Sept. 15-16 for a strategic planning session. Following a brief business meeting in Room 137 of the Capitol, the council will move to the Barrister Bed and Breakfast in Helena for the planning session. Council members have identified several initiatives that they are interested in, and the planning session will allow them to prioritize their goals and to give guidance for future legislative operations. An agenda for the business meeting, a background report on the results of other planning sessions, and ideas for the next session will be posted on the council's website.

For more information and to view agendas, minutes, and meeting materials, please visit the Legislative Council's website at leg.mt.gov/legcouncil, or contact Susan Byorth Fox at 406-444-3066 or sfox@mt.gov.

Board of Labor Appeals Hearing in October

Dan Whyte, Legislative Services Division attorney, will represent the Legislature at a hearing of the Board of Labor Appeals on an unfair labor practice complaint filed by the Montana Education Association and Montana Federation of Teachers because the Legislature did not pass the negotiated state employee pay plan. A hearing is scheduled before a hearings officer Oct. 6 and 7. For more information, contact Whyte at 406-444-3064 or dwhyte@mt.gov.

Legislators Participate in Legislative Organizations

The Montana Legislature belongs to the Council of State Governments and the National Conference of State Legislatures. CSG is the only national organization serving all three branches of state government. It is a regionbased forum that fosters the exchange of insights and ideas to help state officials shape public policy. Montana belongs to CSG-West

In August, Rep. Gary MacLaren attended a CSG-West conference in Honolulu as the vice chair of the Future of Western Legislatures Committee.

NCSL is the only a bipartisan organization that serves legislators and legislative staff of the nation's 50 states, commonwealths, and territories.

NCSL held its August annual summit meeting in San Antonio. The summit included training sessions on budgets and

revenues, public pensions, energy policy, redistricting, agriculture, health care, and a variety of other topics.

More legislators from Montana attended the annual meeting than have in the recent past. Seven legislative staff members also attended. Participants were fully involved in the sessions and gained valuable knowledge that will benefit administrative legislative committees and interim committees.

Legislators attending the meeting included Sens. Ron Art-hun, Larry Jent, Christine Kaufmann, Mitch Tropila, Bruce Tutvedt, and Reps. Elsie Arntzen, Liz Bangerter, Bill Beck, Joanne Blyton, Champ Edmunds, Steve Gibson, Doug Kary, Jesse O'Hara, Michele Reinhart, and Jon Sesso.

Legislator and Staff Take on Responsibilities, Receive Award

Rep. Arntzen is a 2011-2012 at-large member of the NCSL Executive Committee. The committee and officers have supervision, control, and direction of the affairs of NCSL, its committees, and publications. It also implements policies and supervises the disbursement of its funds.

Dave Bohyer, director of the Office of Research and Policy Analysis, Legislative Services Division, is one of the six directors on the NCSL Research and Committee Staff Section. This is his second term, which ends in 2013. RACSS is the organization for legislative staff involved in research, policy analysis, committee staffing, or constituent services.

Sheri Scurr received a Notable Documents Award for her publication "Combating DUIs, Preserving DNA and Examining Emerging Law and Justice Issues." She was recognized by the Legislative Research Librarians Staff Section of NCSL.

Revenue & Transportation Begins Studies (to the Third-Power)

The Revenue and Transportation Interim Committee is meeting Sept. 26-27 in Room 137 of the Capitol. The committee will spend most of its time on three assigned studies.

House Joint Resolution 13 requires a study of individual income taxes. Committee staff will present a report on Montana's income tax structure, including conformity with federal individual income tax law, and an overview on other states' tax structures. Legislative Fiscal Division staff will present an analysis of the use of income tax credits in Montana.

Senate Joint Resolution 17 is a study of the valuation of centrally assessed property and industrial property for property tax purposes. Committee staff will discuss aspects of the state's property tax structure in general and the unit value method for valuing centrally assessed property. The Department of Revenue will discuss how it values centrally assessed

property and industrial property and taxpayers will describe how they comply with reporting requirements to the department.

For the SJR 23 study of nonprofit organizations' tax exemptions, committee staff will provide an overview of income and property taxes allowed for nonprofits and a legislative history of the exemptions. The report will also include a discussion of other states' tax treatment of nonprofits. The department will describe the application and review process for granting tax exemptions, and the Montana Hospital Association will present examples of the exemption status of property owned by nonprofit hospitals.

The committee will conduct work sessions on how to proceed with each of the studies.

Terry Johnson, Legislative Fiscal Division, will give an update on state revenue collections. Johnson will also discuss significant assumptions used to estimate major revenue sources for educational purposes for the committee and the Legislature when they are involved in the revenue estimating process.

Other agenda items are not yet firm, but they will include reports from the Departments of Revenue and Transportation and rule review.

The agenda and meeting material will be posted on the committee webpage (leg.mt.gov/rctic) by mid-September. For more information, contact Jeff Martin, committee staff, at 406-444-3595 or jmartin@mt.gov.

SAVA to Review Public Retirement System, Other Topics in October

The State Administration and Veterans' Affairs Interim Committee will meet Oct. 20 in Helena. The committee agreed in June to take on four topics for study:

- options to deal with the unfunded accrued actuarial liability of the retirement system;
- consideration of how retirement system liabilities are handled in the budgeting process;
- examination of whether to give the Commissioner of Political Practices increased authority to enforce election law; and
- exploration of combining school board, municipal, and primary elections.

In October, the committee will review and adopt study plans to guide the work on these topics.

Agenda items for the study of the retirement system will likely include a background report on the retirement system, a review of recent legislative action in other states related to

public pensions, a discussion with representatives from the Board of Investments, a briefing on Governmental Accounting Standards Board proposed rules, an update on pension-related litigation, and information on Legislative Finance Committee work related to pensions.

The committee will also likely hear an update from the Commissioner of Political Practices, discuss a time line for reviewing pension-related agency and stakeholder legislative proposals, and begin to consider principles for a sound retirement system.

For more information, contact Megan Moore at 406-444-4496 or memoore@mt.gov. Committee information is available at leg.mt.gov/sava.

Water Panel to Study Exempt Water Wells

The analysis required of permitted water well and a well exempt from permitting will be explained at the September meeting of the Water Policy Interim Committee.

The meeting begins Sept. 13 at 9 a.m. in Room 172 of the Capitol. It will conclude by noon on Sept. 14.

The panel dedicated most of its interim to the study mandated by House Bill 602. The study will cover wells that pump less than 35 gallons per minute and yield less than 10 acre-feet of water a year. Thousands of these wells exist around the state for various uses including domestic, stock, and irrigation.

The Back Page

The Marrying Kind — City-County Consolidation in Montana and Beyond

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A Tale of Two Governments

Consolidation. You can almost hear hackles rise at the utterance of the word and imagine swords crossed in front of courthouses and city halls across Montana. It is understandable. Their granite edifices represent independence and local control for the towns, cities, and counties whose administrations they house, and Montanans are loathe to readily relinquish either.

But in this time of economic woe, demographic and tax base shifts, and technological advancement, local government consolidation discussions are gaining steam. States are studying the feasibility of compelling or providing incentives for consolidation, analyzing whether actual cost savings and efficiencies result, and gauging whether members of the voting

However, some argue that the cumulative effect of exempt withdrawals may be impairing senior water rights.

Montana and other western states manage water on a first come, first served basis. New uses are allowed so long as prior uses are not adversely affected. Larger wells and surface water appropriations must obtain a permit from the state and show that existing water users would not be harmed by the new use.

The committee will hear presentations from water users who obtained permits for projects and those who use exempt wells.

Other presentations include an overview of how other states handle exempt water uses, an examination of the legal aspects of enforcing exempt water rights within the system, and possible options for management.

Other agenda items include updates on work by the Oil Pipeline Safety Review Council, the Nutrient Work Group, the Clark Fork River Basin Task Force, the Ground Water Investigation Program, and the Montana Water Center.

The Department of Natural Resources and Conservation will demonstrate how rivers work with its Rolling River trailer.

For more information visit leg.mt.gov/water or contact Joe Kolman, committee staff, at 406-444-9280 or jkolman@mt.gov.

public have the fortitude to approve such dramatic change to their local governance.

Two Montana communities, Butte-Silver Bow and Anaconda-Deer Lodge, well-known (and celebrated) for doing things a little differently, have embraced consolidated local government. It may be concluded that the unique history of those communities led them down the path to consolidated government and that their comparatively small land masses with few incorporated towns lend themselves well to that system, which may not make sense elsewhere.

Are Montana's local economies and demographic changes such that state and local policymakers should explore consolidation more seriously, even though the efficiency debate is far from settled and consolidation ultimately means dissolution for someone? Might some Montana cities and counties be the marrying kind? A look back at Montana's experience with consolidation, along with a review of other states' forays into

merging local government, the studies that have resulted, and what drives efforts to consolidate may provide some clues.

Why consolidate? “Proponents of consolidation come from both ends of the political spectrum,” offers a story published in the June 8, 2011, edition of *The Wall Street Journal*.¹ “Some conservatives argue that having fewer layers and divisions of government is cost-efficient and improves the economic climate by streamlining regulation and taxation. Some liberals support eliminating local-government boundaries that they say have cemented economic and racial disparities between cities and surrounding towns.”

The main impetus of consolidation, according to a 2005 article written for the City Mayors Foundation, is “expanding the present and potential tax base.” Whatever the impetus, decisions about consolidation ultimately belong to the electorate. The framers of the 1972 Montana Constitution left no doubt about where that power should lie.

Montana’s Approach

The delegates to the Montana Constitutional Convention deliberately placed decisions about the operation and structure of local governments squarely into the hands of the governed. At the time, Montana was the only state in the country to require regular voter review of its local government structure. As ratified,² Article XI, section 9, of the Constitution read:

- (1) The legislature shall, within four years of the ratification of this constitution, provide procedures requiring each local government unit or combination of units to review its structure and submit one alternative form of government to the qualified electors at the next general or special election.
- (2) The legislature shall require a review procedure once every ten years after the first election.

According to the letter accompanying the Local Government Committee’s submission of its proposal to the convention, there was “strong minority support” among its members for a wholesale replacement of cities, towns, counties, and school districts with a “new one-level district structure.”³ The committee stopped short of that kind of drastic reform, however,

and opted instead for required voter review. Commentary provided with the proposal explains:

The committee strongly believes that such local review of government is highly desirable. Costs would be minimum and more than repaid if local governments can be improved. Increased voter interest and awareness of local government issues would be assured, and some local units, through experimentation, might find answers to local government problems that would aid other units in the state.

During committee debate on requiring voter review, Delegate Franklin Arness said that the “present form of government tends to favor inaction” and that “in order to goad these people into some kind of movement, something is necessary.”⁴ Delegate George Rollins was a little more colorful:

Mr. Chairman, when we had numerous county and city officials in for--to testify before our committee, I was impressed with the idea that the responses of local government to needs to change are about as fast as the reflexes of a brontosaurus that blinks its eyes 4 minutes after it’s bitten on the tail by a tyrannosaurus. . . . We hear quite often that local governments will say they’re satisfied with what they have, which, to me, is a rather low state of contentment. I remember once getting in a fight, and the other kid beat the soup out of me, and he says, ‘Are you satisfied?’ And I said Yes, but I wasn’t happy. Now, the local people have been getting the soup beaten out of them sometimes because they are under governments which refuse to meet the challenge, and I think this is something that will at least force them to propose some kind of an alternative within 4 years and again in 10 years, and I think it’s one of the more valuable parts of the article.⁵

To effect the provisions of Article XI, the Legislature in 1975 enacted much of what is now found in Title 7, chapter 3 of the Montana Code Annotated. The chapter is entitled “Alternative Forms of Local Government” and its parts include procedures for instituting a variety of governing structures, including commission-manager, commission-executive, commission-presiding officer, and town meeting. The Legislature required localities to adopt one of six listed forms and directed how a community may go about adopting self-

¹“Threats to Town Halls Stir Voter Backlash”; *The Wall Street Journal*, June 8, 2011; Kate Linebaugh.

²In 1978, Montana voters amended Article XI, section 9, to read that the “legislature shall require an election in each local government to determine whether a local government will undertake a review procedure once every ten years after the first election. Approval by a majority of those voting in the decennial general election on the question of undertaking a local government review is necessary to mandate the election of a local government study commission.”

³Montana Constitutional Convention, Vol. II, page 780.

⁴Montana Constitutional Convention, Verbatim Transcript, March 17, 1972, Vol VII, page 2557.

⁵Montana Constitutional Convention, Verbatim Transcript, March 17, 1972, Vol VII, page 2557.

government charters and consolidated city-county governing structures, all of which require voter approval, all of which are subject to local political vagaries.

Butte, Silver Bow County Take the Lead

In the fall of 1975, Evel Knievel jumped 133 feet over fourteen Greyhound buses at King's Island theme park in Ohio. A year later, citizens of Evel's hometown were positioned on either side of a divide wide enough that even Evel would have come up short. At its center was a city-county unification charter for Butte and Silver Bow County proposed by the study commission formed to conduct the area's required local government review. Backers claimed improved leadership, simplification, economy, and efficiency would result. Detractors, among them members of the area's volunteer fire departments, called it a power grab by the city and a certain route to dictatorship, nepotism, and higher taxes.

In the months leading up to the November 2, 1976, general election, residents of Anaconda, Deer Lodge County, Missoula, and Missoula County were embroiled in similar city-county consolidation discussions. Unification passed by comfortable margins in Anaconda and Deer Lodge County and in Butte and Silver Bow County, but failed in Missoula.⁶ Anaconda and Deer Lodge County residents were facing property tax increases of more than 60 percent over the preceding eight years--a likely factor in their decision to try something new. Butte's consolidation story, like most of Butte's other stories, has some twists and turns and a little drama.

Decades before the 1972 Constitution definitively opened the door to alternative local governments, residents of the city of Butte and Silver Bow County considered consolidation at least three times. In 1924, electors in the city of Butte approved a consolidation measure but the county rejected it. According to one analysis of Butte's experience with local government reform, while the mining industry was not "out in front in the election, either as an opponent or proponent, ... [its] political machine worked to subvert the election."⁷

Similarly, the industrial political machine was accused of intimidating voters into rejecting a 1931 consolidation bid. *The Montana Standard* reported that destitute citizens of Butte had been convinced that consolidation would mean the end of poor funds and widow's pensions. The *Standard* opined, "What a sordid story of deceit and imposition, of knavery and heartlessness! Everybody knows that the poor funds and

the widow's pension funds are not affected in the remotest degree by the consolidation act."⁸

In October 1976, the joint Butte and Silver Bow local government study commission published a draft charter in *The Montana Standard*. The introduction read, in part:

After nearly two years of study, it has become clear to the members of the joint study commission that it makes little sense to support and finance two units of local government within one area containing a single community of interest. . . . Butte is the most densely populated city in the state. Over 95% of Silver Bow's 43,650 citizens reside within or immediately adjacent to the city. More than any other community in the state, it makes sense for us to have only a single unit of local government.

The predicted advantages listed by the study commission included unified administration to provide effective leadership for area-wide policy and development; simplification of existing governmental structures; economy and efficiency; and a council of part-time commissioners for legislation with a full-time chief executive for administration.

A "leaky dinghy", rather than a mighty ship of state, is what one of the opponents called the proposed charter in a letter to *The Montana Standard*. The proposed "one-man rule" by the chief executive would be "tantamount to a totalitarian autocracy," the opponent claimed. An ad sponsored by "concerned residents of the Race Track area" declared: "Higher Fire Taxes!!" "12 Commissioners who can set their own salaries." "A chief executive dictator with the power to hire and fire all non-elected department employees with no nepotism clause."

While the consolidation skirmish played out in the local paper, Silver Bow County commissioners were making news of their own, having awarded a paving contract \$2,799 in excess of the \$10,000 statutory limit at which contracts were required to be submitted for bid. The commissioners were charged with official misconduct and found guilty. The court removed them from office, fined each \$100, and sentenced each to one day in jail. Residents of Silver Bow County were probably not enamored of their government.

Perhaps it was a "throw the bums out" sentiment that finally made the difference in Butte-Silver Bow where merger proposals had failed thrice before. More likely, a combination of factors--significant among them the faltering local economy in both Butte-Silver Bow and Anaconda-Deer Lodge--landed

⁶Sixty-one percent of Butte-Silver Bow voters approved the proposed charter for consolidated city-county government. The measure was approved by 57 percent of Anaconda-Deer Lodge voters and failed in Missoula with 55 percent voting no.

⁷Susan Keim and Justin Marlowe; *From Company Town to Consolidated Government: City-County Consolidation; Promises Made, Promises Kept?*; p. 163.

⁸Ibid.

the two communities in an exclusive club of city-county governments operating in the United States.

Few Consolidated Governments Nationwide

City-county consolidation is a rarity. Of the 3,069 county governments in the United States, 35 are combined with a city. New Orleans-Orleans Parish became the country's first consolidated city-county government in 1805. Others with large populations include Boston-Suffolk County, San Francisco-San Francisco County, Denver-Denver County, Indianapolis-Marion County, Miami-Dade County, Louisville-Jefferson County, and Nashville-Davidson County. A number of rural consolidated governments exist as well in Tennessee, Georgia, Alaska, Virginia, and Nevada.

According to an examination of city-county merger efforts in Tennessee,⁹ voters tend to support studying their government structure, but support weakens dramatically when it comes time to vote on changing that structure. In a story exploring Michigan Gov. Rick Snyder's efforts to minimize fragmentation and maximize efficiency among the state's 1,773 municipalities, 609 school districts, 1,071 fire departments, and 608 police departments, *The Wall Street Journal* reported that "Today's fragmented governments grew out of voter demands for home rule and tighter control over local resources such as emergency services and schools. Voters tend to protect those resources, even if it means paying more for them."¹⁰ Snyder is confronting this voter sentiment as he directs his administration to find ways to compel combining municipal services and local governments in the state.

While he cannot force local government or service consolidation, Snyder is holding a carrot -- some \$200 million in state funds for cities in need. Cities must show evidence of consolidated services such as fire and garbage collection to be eligible for the funds. Snyder has also instituted policies to provide incentives to school districts to merge and has supported legislation to give the state greater powers in controlling city finances. Small-town Michiganders interviewed for the story aren't thrilled with the developments. A larger, combined government, they fear, will be a government that is less responsive to local needs.

Comprehensive studies conducted on whether consolidation actually results in cost savings and efficiency in delivery of services appear to lead to the following vexing conclusion: It depends. It depends on the type of services being delivered,

the population, the structure of the combined government, the state laws that control operation of local government, the follow-through of the local officials, and perhaps dozens of other factors. An analysis conducted by a senior economist for the Michigan Senate advises a judicious approach:

A word of caution is in order in assessing the feasibility of local government consolidation or cooperation. It is relatively straightforward to generally demonstrate that two local government entities -- for example, a contiguous township and city -- can be shown to have duplicative positions and equipment. A proposed merger could eliminate these duplicative activities and positions and lead to lower costs and perhaps lower mileage rates. The problem lies in the notion of 'feasible.'¹¹

An entire book dedicated to the results of city-county consolidation in nine locations, including Butte-Silver Bow, found that in general, "the economic development promises [by proponents of consolidation] have largely been kept, whereas the implicit (and sometimes explicit) promises of increased efficiency have not."¹²

As is the case with all things related to local government in Montana, there is no easy answer to the question of whether city-county consolidation makes sense from an economic, political, or social standpoint. Experience and research in Montana and elsewhere shows that, while on the surface, the elimination of duplication and creation of one-stop-shopping for government services sounds like a no-brainer, the larger government created by combining forces may not be the answer to a community's ills. Either way, the electorate is guaranteed the final say, and that is as it should be.

⁹"The Consolidation of City and County Governments: A Look at the History and Outcome-Based Research of These Efforts", 2009; Pat Hardy, Municipal Tennessee Advisory Service, University of Tennessee Institute for Public Service.

¹⁰"Threats to Town Halls Stir Voter Backlash"; *The Wall Street Journal*, June 8, 2011; Kate Linebaugh.

¹¹Local Government Consolidation: Assessing the evidence for Cost Savings and Economic Improvement; Summer 2010; Eric Scorsone, Senior Economist, Michigan Senate.

¹²*City-County Consolidation; Promises Made, Promises Kept?* Suzanne M Leland, Kurt Thurmaier, ed.

Calendar of Legislative Events

All interim committee meetings are held in the Capitol in Helena unless otherwise noted.

| September | | | | | | |
|-----------|--|---|--|--|--|----------|
| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
| | | | | 1 | 2 | 3 |
| 4 | 5 Labor Day | 6 | 7 | 8 | 9 Law & Justice Committee, Rm 137, 8:30 a.m. | 10 |
| 11 | 12 | 13 Water Policy Committee, Rm 172, 9 a.m. | 14 Water Policy Committee, Rm 172, 8 a.m. Environment Quality Council, Rm 172, 1 p.m. | 15 Environment Quality Council, Rm 172, 9 a.m. Education & Local Government Committee, Rm 102, 9 a.m. Legislative Council, Rm 137, 10 a.m.; Barrister Bed & Breakfast, 12:30 p.m. | 16 Education & Local Government Committee, Rm 102, 8 a.m. Legislative Council, Barrister Bed & Breakfast Energy & Telecommunications Committee, Rm 172, 8:30 a.m. | 17 |
| 18 | 19 Children & Families Committee, Rm 137, 9 a.m. | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 Revenue & Transportation Committee, Rm 137, 9 a.m. | 27 Revenue & Transportation Committee, Rm 137, 8 a.m. State-Tribal Relations Committee, Crow Agency - Crow Tribal Government, TBA | 28 State-Tribal Relations Committee, Lame Deer - Northern Cheyenne Tribal Government, TBA | 29 Legislative Finance Committee, Rm 102, 8 a.m. | 30 Legislative Finance Committee, Rm 102, 8 a.m. | |

| October | | | | | | |
|---------|--------|---------|-----------|---|--------|----------|
| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
| | | | | | | 1 |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| 16 | 17 | 18 | 19 | 20 State Administration & Veterans' Affairs, TBA | 21 | 22 |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| 30 | 31 | | | | | |

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