

September 2011 Government Affairs Report

While the days are getting shorter, legislators worked long hours this month on legislative interim committees. Ten different legislative committees met in Helena in September to set the stage for the 2013 Legislature and explore issues facing Montana.

Flathead area legislators discussed restorative justice, water policy, hydraulic fracturing and explored ways to improve the legislative process. Senator Bruce Tutvedt also participated in the National Conference of State Legislators annual summit to gain knowledge and insight on a variety of topics at a national level.

Rep. Steve Lavin serves on the **Law and Justice Interim committee** that met on Sept 9 to explore ways to prevent jail suicide and better understand restorative justice programs. Law and Justice is also charged with reviewing the implementation of DUI bills and the 24/7 sobriety program.

The **Water Policy Interim Committee** has the challenge of setting water policy with respect to senior water rights, the use of exempt wells and permitting future wells/uses. Senator Chas Vincent of Libby serves on the committee which met for two days in Helena to better understand how other states in our region handle exempt water uses and permitting. One of the concerns is that Montana does not distinguish between surface water and ground water for purposes of priority enforcement. So while the DNRC maintains the inventory of large water right holders and maps of water basins for various claims, enforcing water rights is a big challenge that involves various stakeholders, the agency and the judicial system. Senior water right holders continue to argue that the cumulative effect of all the exempt wells are impairing original water rights. The committee also heard a report from Judge Loble of the Water Court on various legal decisions. The WPIC will continue to wrestle over exempt wells in open and closed basins, controlled groundwater areas, creating a water bank to facilitate water marketing and the promotion of public water and sewer systems.

The 2011 Legislature asked the **Environmental Quality Council** to study state parks, heritage programs and outdoor recreation out of a concern over the solvency and management of a myriad of programs within the system. The objective is to develop legislation to improve the management and coordination of programs. Senator Chas Vincent and Representative Jerry Bennett both of Libby serve on EQC. The committee received a broad overview of all existing programs (Tourism, MT Heritage Commission, Community Development, etc) and the current funding for each program. The challenge will be to determine if all these operations should continue and how they should be managed and funded. Given that a number of these programs are tourism related, we will

carefully monitor the decision package before the committee over the next few months. EQC is also working to address the issue of cabin site leases as a result of SB 409.

The **Education and Local Government** committee spent the majority of its two day meeting discussing K-12 funding and addressing ways to modify school funding based on performance. They heard a summary of other state measures and listened to multiple education stakeholders about ways to improve performance and challenges to the system. Improving our public education system is a priority and the difficulty is to determine what the factors for measurement should be and how to implement such mechanisms. Should sanctions be school reforms and intervention rather than reduced funding? How do schools identify the right tests to measure success? How do you recognize or measure teachers/subject that do not have tests (art, music, social studies)? These are all issues the ELG committee will be addressing in the next few months.

Legislative leadership, including Kalispell Senator Bruce Tutvedt, who serve on **Legislative Council** spent two days in Helena exploring ways to improve the legislative process through a strategic planning meeting. The committee also received an update on potential initiative and referenda status. One legislative referendum will appear on the June 5, 2012 ballot to require election of supreme court justices from districts. Four referenda will appear on the November 6, 2012 ballot: LR120-revise parental notice of abortion and judicial bypass; LR121-require proof of citizenship to receive state service; LR122-prohibit health insurance purchase requirement; and LR 123 for contingent property and income tax reductions based on surplus (this taxpayer dividend program is based on total state revenue and property and individual tax ratios).

Kalispell Senator Verdell Jackson serves on the **Energy and Telecommunications Interim Committee** who met in Helena on Sept 16. Montana's One-Call Law is a priority topic and the ETIC agreed that future legislation must come from the stakeholders (utilities, excavators, pipeline companies, etc.). Such stakeholders are encouraged to participate in the committee to develop a state solution for enforcement over damage rather than Federal enforcement. The One Call solutions will likely diverge from previous one call bills and explore a bilateral approach to enforcement (oil/natural gas pipeline damage enforcement would be separated from telecommunications damage enforcement). Currently what lacks in MT's One Call rule is enforcement authority and consistency. Not all incidents are reported and the penalties can be so low that they do not deter excavators/diggers.

The ETIC committee also received a presentation from Tom Richmond (MT Board of Oil and Gas) on the new hydraulic fracturing rules. The rules protect the formula of the fluid, not the specific ingredients. Travis Kavulla, chair of the PSC also provided an overview of all the issues before the PSC (Mill Creek, NWE natural gas plant, MDU's 2.5% approved rate increase, Mountain Water's transfer of ownership, etc.)

Why are children going hungry is the question confronting the **Children, Families, Health and Human Services** which met on September 19. The committee learned about childhood hunger efforts currently underway and the programs available to provide food or assist individuals to purchase food. This committee will also monitor the state Medicaid program and look at trends that will affect Medicaid in the future.

An initial presentation made by Terry Johnson to the **Revenue and Transportation** committee on Monday, Sept 26 was optimistic about the state's current revenue and ending fund balance. Senator Bruce Tutvedt serves on this critical committee. The preliminary ending fund balance for FY 2011 (June 30, 2011) is \$343.8 million. The 2011 legislature expected an ending fund balance of \$227.3 million. Even with oil and gas revenue down 4.6% and vehicle tax/fee revenue down 6%, current year revenue is up approximately \$90.8 million. This is due to \$53.7 million increase in individual income tax collections and \$21.7 million increase in corporate tax collection. More to come from this committee work in October.

Full coverage of the Revenue and Transportation Interim committee (meeting 9/26-27), **Legislative Finance Committee** (meeting on 9/28-29) and **State-Tribal Relations Committee** (meeting on 9/28) will appear in the next report. Also in October, a report on the next **Select Committee on Efficiency in Government** (Oct 6-7-Helena) and **State Administration and Veteran's Affairs** (October 20 -Helena).

Natural Resource Dashboard:

- Horizontal drilling has led to increased oil production in Montana recently.
- In 2010, the Bakken formation produced over 85 million barrels of oil in North Dakota, compared to 25.6 million barrels of total oil production in Montana in 2010 (ND total oil production was 113 million in 2010).
- Since 2003, Montana's total coal production by quarter has varied between 7 to 10 million taxable tons. It peaked in the 3rd quarter of 2010 at 10.5 taxable tons.

If you have any questions about issues in this report or for additional information, please contact us. Happy Fall.