

**2021 Legislature  
Transmittal Report  
From John MacDonald and SK Rossi**

As we come to an end of the first half of the 2021 Montana legislative session, we present this Transmittal Report to provide an update on the legislation we've been tracking, as well as to provide our assessment of the session to date and what lies ahead.

We knew months in advance that 2021 was going to be a challenging session due largely to the COVID-19 pandemic. It became clear challenges for local government – from funding to local control – would be exacerbated with a super-majority Republican control of the Legislature and a Republican in the governor's office. For the previous past 16 years, local government had a high degree of confidence that the Democratic governor would veto most bills unfriendly to local governments. That is no longer the case.

The absence of that "gatekeeper" seems to also have empowered some to bring even more-unfriendly legislation for local government to fight this session. These have included continued and more aggressive assaults on local government's ability to self-govern; from the carrying of firearms, to protecting our LGBTQ members from discrimination, to zoning, to health orders, to banning the use of plastic bags. The Legislature's appetite to restrict local government's authority this session seems bottomless.

But it has not been unabated. We are proud of our efforts to date to stop many of these. At least 19 bills that would have had potentially significant consequences to local government have been stopped in their tracks. These included about a half-dozen that would have up-ended planning and zoning regulations and authority. We also worked with allies to kill the worst of a slew of bills intended to prevent local health boards from protecting residents through emergency orders. The measures that are moving forward are either conditions local governments can live with, or – in at least once case – is legislation we believe we can still kill.

But those successes are matched – numerically equally – with the same number of bills we opposed that have made it through transmittal. And as we prepare for the second grueling half of the session, we see these as our priorities. We have a second chance to kill them. The section below entitled "Opposed Bills Moving Forward" is where our efforts will be concentrated after transmittal. We will continue to work closely with the Montana League of Cities and Towns to strategize on how best to dispose of these; whether we can kill them outright or get them amended to be less of an issue or no issue at all.

There are a handful of other bills that were not yet introduced because of their “revenue bill” status that could also require our attention. This includes at least one TIF-related bill. In the first half of the session, we saw only two TIF bills, both coming late in the session and neither being of significant concern to local governments. We had worked with the sponsor in advance and believe our conversations with him dissuaded further legislation being drafted.

## **SUPPORTED BILLS MOVING FORWARD**

### **HB6: Renewable resource grants.**

Position : SUPPORT

Status: In Appropriations

Brief: This is the standing appropriation bill that provides grants for a variety of renewable resource projects.

### **HB21: Authorize funding for the multi-family coal trust home loan program.**

Position: SUPPORT.

Status: Transmitted to the Senate and first hearing held

Brief: Local governments supported this bill last session and it has great success, providing millions from the coal trust for affordable housing projects and groups. The request this year was to renew and increase funding for the loan program. This was the priority bill for the Montana Housing Coalition and we provided our assistance as needed to move it forward.

### **HB121: Require elected official approval of local health board and officer actions.**

Position: SUPPORT as AMENDED

Status: Transmitted to the Senate

Brief: One of many bills this session intended to address concerns about health orders from city and county health boards. The League led efforts to advance this bill with amendments as it appeared from the beginning to be the most reasonable approach. A number of the other bills, however, are also moving forward.

### **HB243: Generally revise laws related to law enforcement officers.**

Position: SUPPORT

Status: Transmitted to the Senate.

Brief: Bill was brought at the request of the Missoula police chief and carried by Missoula Rep. Mike Hopkins to address manpower issues related to the requirement to provide an officer to serve as a municipal court bailiff if requested by the judge. This bill allows municipal police departments to pay reserve duties as part-time court officers. Received a 100-0 floor vote.

### **HB422: Authorize municipalities to operate broadband services.**

Position: SUPPORT (and as AMENDED)

Status: Passed Committee

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Brief: Bill brought by Bozeman freshman Rep. Kelly Kortum to allow local governments to operate these important services. The bill had good support in committee, but also brought out the telecom and internet industries to oppose. The amended version approved by the House committee is supported by the sponsor and the local governments.

There may be bills listed here that were not priority issues in your tracking, but which popped up and required attention. Likewise, we know there are other bills not listed here that we tracked, but may not have had the opportunity – due to the frenetic schedule – to take an active role in lobbying for or against.

### **HB319: Revise dates for special purpose elections**

Position: SUPPORT

Status: Transmitted to the Senate.

Brief: This bill was brought by Bozeman Rep. Alice Buckley at the request of Bozeman to address limitations on when special purpose elections may be held, allowing them to be held on the same dates as general elections, saving time and streamlining the process. Received a 100-0 floor vote.

## **SUPPORTED BILLS DEAD**

### **SB10: Providing for circuit breaker income tax credit for property taxes paid.**

Position: SUPPORT

Status: TABLED in first committee.

Brief: Sen. Cohenour's bill that would have created a nexus between property taxes paid and income. The bill would have provided income tax breaks if property taxes hit a certain percentage of income. The bill would have been a significant benefit to lower-income and fixed-income retired residents, but the fiscal note that accompanied the bill spelled its doom.

### **SB73: Provide for local distribution of lodging sales tax revenue.**

Position: SUPPORT

Status: TABLED in first committee.

Brief: An interesting approach from Sen. Keith Regier that would have allowed local governments to share in the revenue from lodging sales tax revenue. Local governments and the League of Cities and Towns supported.

### **SB313: Provide for local option sales tax: Montana Tax Fairness and Rural Revenue Initiative.**

Position: SUPPORT

Status: TABLED in first committee.

Brief: This was the central effort of Bozeman and Missoula for local option this session. Carried by Sen. Pope of Bozeman and based on a combination of his bill last year and suggestions from Bozeman Deputy Mayor Cunningham, this bill had a lot of support in committee, but its chances for passage were slim.

We did, however, use the hearing to advance our narrative that the state continues to box local governments in, creating continued property tax hardship on thousands of Montanans, and exclude local governments from deciding for themselves how best to serve the citizens.

## **OPPOSED BILLS MOVING FORWARD**

### **HB102: Generally Revise gun laws.**

Position: OPPOSE

Status: Signed by governor.

Brief: One of a number of bills this session that continued to erode local governments ability to regulate the carrying of open and concealed weapons. This and other bills addressed the final issues not covered by LR-130, limiting a local government from prohibiting the concealed carrying of weapons by those with permits, and limiting a local governments ability to restrict the open-carrying of firearms in other areas of a community.

### **HB112: Require interscholastic athletes to participate under sex assigned at birth.**

Position: OPPOSE

Status: Transmitted to the Senate

Brief: One of a number of anti-transgender bills that both Missoula and Bozeman (as well as the League of Cities and Towns) opposed due to their direct conflict with our local Non-Discrimination Ordinances. This bill requires an athlete to participate in interscholastic athletics only under the sex assigned at birth.

### **HB137: Generally revise vaping and alternative nicotine product laws.**

Position: OPPOSE

Status: Transmitted to the Senate.

Brief: This bill is likely in direct response to Missoula's ordinance banning the sale of vaping products within city limits. The sponsor is owner of a vaping shop company in the Bitterroot. Supporters of the bill make successful arguments that local governments should not have the ability to ban the sale of legal products within their borders.

### **HB230: Generally revise emergency and disaster laws.**

Position: OPPOSE (But Amendments may address major concerns)

Status: Transmitted to the Senate

Brief: The League has taken the lead on this one, and it appears amendments adopted late in the process may eliminate most of the concerns that local government has had with it. We will monitor.

### **HB257: Revise laws relating to government mandates and businesses.**

Position: OPPOSE

Status: Transmitted to the Senate.

Brief: Another in a series of bills attempting to limit a local government's abilities to pass emergency ordinances to deal with health and other emergencies. It was believed that this bill would die on the

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House side in favor of other bills moving forward, such as HB121. HB257 has several very broad sections that could completely limit local governments from setting specific rules for businesses even when an emergency doesn't exist. We will pick up efforts on the Senate side to kill this bill.

### **HB258: Revise laws related to firearms, ammunition and accessories.**

Position: OPPOSE

Status: Transmitted to the Senate

Brief: The title may be misleading or incomplete. This bill essentially prevents any state or local law enforcement officer from enforcing, assisting with or investigating any federal firearms or ammunition violations.

### **HB259: Revise property and zoning laws.**

Position: OPPOSE

Status: Transmitted to the Senate. Scheduled for hearing March 12

Brief: We had a very disappointing hearing in House Local Government after several solid "NO" votes turned into reluctant YES votes. Killing this bill on the Senate side will be a Priority I for us moving forward, as the bill not only would prohibit Bozeman from continuing its inclusionary zoning policy, but would take that option off the table for every other community in the state. Since its passage in the House, we have had a number of new allies step forward and will be employing them to see if we can't kill this on the Senate side.

### **HB269: Require elected official approval of sanitation related to local health board rules.**

Position: OPPOSE

Status: Transmitted to the Senate and scheduled for hearing March 15

Brief: Another in the series of bills to limit the authority of local government health boards. This requires that all decisions by a health board or other entity regarding sanitation be approved by an elected board.

### **HB407: Establish statewide uniformity for auxiliary container regulations.**

Position: OPPOSE

Status: Transmitted to the Senate.

Brief: Possibly because of the title, no environmental groups showed up to oppose this bill, which would prohibit local governments from adopting bans, taxes or any other regulations regarding plastic bags. This is an ALEC bill being pushed in other states and is another restriction on the rights of self-governing local governments.

### **HB281: Revise laws related to E-bikes.**

Position: OPPOSE as AMENDED.

Status: Transmitted to the Senate.

Brief: This bill was not on our radar until Missoula noticed committee amendments that would allow the use of electric bikes in certain areas intended only for non-motorized travel. We will attempt to address this on the Senate side.

**HB303: Revise business equipment tax. Governor's "BIG" bill.**

Position: OPPOSE

Status: Transmitted to Senate and passed first hearing.

Brief: Includes tax cuts benefitting business at the expense of residential taxpayers.

**HB427: Provide for youth health protection.**

Position: OPPOSE

Status: Transmitted to the Senate.

Brief: Sadly, the sponsor was allowed to reincarnate his doomed HB113 with this version. It was allowed because HB427 deals only with medical procedures. We will continue to try to defeat this on the Senate side.

**HB428: Generally revise civil liability laws related to state and local government.**

Position: OPPOSE

Status: Transmitted to the Senate.

Brief:

**HB464: Repeal local option gas tax**

Position: OPPOSE

Status: Awaiting first hearing. (revenue bill)

Brief: Due to it being a revenue bill, this has not yet been heard in committee. We will oppose this to support MACO and county governments.

**SB174: Revise laws related to local subdivision review.**

Position: OPPOSE

Status: Transmitted to the House.

Brief: The league has taken the lead on this one and will continue efforts on the House side to kill it. We will assist as requested.

**SB178: Prohibiting state building codes from requiring mandatory fire sprinklers.**

Position: OPPOSE

Status: Transmitted to the House.

Brief: This one came up late in the process and we were not able to do much lobbying before it came up and was quickly passed out of committee. Fire Departments of both Missoula and Bozeman have concerns with it and we will monitor and assist as needed.

**SB215: Establish the Religious Freedom Restoration Act.**

Position: OPPOSE

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**Status: Passed Second-Reading in the Senate.**

Brief: Seen by many as nothing more than an legalizing the ability to claim religious rights to discriminate against others. Missoula and Bozeman have both opposed in support of the LGBTQ community and concerns that this legislation conflicts with the communities' Non-Discrimination ordinances.

**SB280: Revise vital statistics laws regarding sex designations on birth certificates.**

Position: OPPOSE

Status: Passed first committee.

Brief: Another in a series of bills that simply seem to target and marginalize transgender citizens. For the same reasons as previously stated, Bozeman and Missoula have opposed.

**SB277: Generally revise laws related to states rights**

Position: OPPOSE (Missoula)

**Status: Passed second-reading in Senate.**

Brief:

## OPPOSED BILLS DEAD

**HB78: Require certain employees to report suspected child abuse and neglect.**

Position: MONITOR/OPPOSE

Status: TABLED in first committee.

Brief: Missoula and Bozeman both raised concerns with the broadness of this bill and the potential legal ramifications. We got the sponsor to agree to some amendments that likely would have alleviated our concerns. They committee, however, tabled the bill without acting on any amendments.

**HB106: Prohibit expansion of the Montana Clean Indoor Air Act.**

Position: OPPOSE

Status: TABLED in first committee.

Brief: Another in a series of bills from Rep. Marshall that seemed to be targeted to help his particular business. The bill would have prevented local governments from "expanding" the Indoor Clean Air Act to include any vaping products.

**HB107: Revise mill levy election laws.**

Position: OPPOSE

Status: TABLED in first committee

Brief:

**HB113: Provide for youth health protection act.**

Position: OPPOSE

Status: KILLED on House floor.

Brief: While opponents of this bill were able to kill it on the House floor and prevent a reconsideration on the House floor, the bill came back in a re-incarnated version mentioned above as HB427.

**HB134: Allow zoning for duplex, triplex and fourplex housing in certain municipal areas.**

Position: OPPOSE

Status: TABLED in first committee

Brief: While this bill may have been well-intentioned, it was poorly thought out and would have created numerous unintended consequences. We worked with the League in hopes of simply getting the sponsor to pull the bill from consideration. He did not. Opponents of the bill did an incredibly good job during the hearing pointing out all the issues with it.

**HB145: Allow local boards of health and health officers to issue recommendations.**

Position: OPPOSE

Status: TABLED in first committee.

Brief: The legislation would have eliminated the ability for local health boards to pass “orders,” making all of their actions simply recommendations that had to be approved by a governing body. Similar versions of this bill continue to move forward. We are concentrating on supporting HB121 as a reasonable approach, and will continue working to kill the other versions.

**HB240: Revise state income tax deductions for certain dependents.**

Position: OPPOSE

Status: FAILED third reading in the House.

Brief: We learned of this bill late in the process and missed the committee hearing. The bill essentially would force college students to choose between voting as residents of their new college town OR allowing their parents to claim them as “dependents” and vote in their hometown. It passed committee but we worked his hard when it got to the floor. While it passed second-reading, efforts by us and other lobbyists were able to flip enough votes to kill it on third reading.

**HB327: Provide for default definitions for covenants limiting the use of real property.**

Position: OPPOSE

Status: TABLED in first committee.

Brief: This appeared to be a very specific constituent bill that fortunately died rapidly.

**HB338: Generally revise certification laws of trash/waste management companies.**

Position: OPPOSE

Status: TABLED in first committee

Brief: It appears this legislation was brought by folks upset with decisions made by the PSC regarding solid waste services. Missoula opposed the bill.

**HB352: Revise laws related to conservation easements.**

Position: OPPOSE

Status: TABLED on first committee.

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Brief: The bill would have required public access for unspecified “public enjoyment” on any conservation easements paid in full or part with public funds. The bill had no proponents and was broadly panned by conservative property rights groups as well as land trust organizations and conservation/hunting groups.

### **HB359: Revise net metering laws.**

Position: OPPOSE

Status: Withdrawn by Sponsor.

Brief: The bill would have substantially reduced the payment those participating would have received for returning energy to the grid. The sponsor withdrew the bill after strong opposition.

### **HB395: Prohibit zoning during emergency declarations.**

Position: OPPOSE

Status: TABLED in first committee

Brief: A constituency bill brought at the request of Lewis and Clark residents who were opposed to county-wide zoning that – although it began before the pandemic – concluded during it. The poorly written bill would have banned ALL zoning during ANY emergency declared by the governor.

### **HB528: Generally revise county planning, zoning and subdivision regulation laws.**

Position: OPPOSE

Status: TABLED in first committee

Brief: This and the bill below were brought by the same sponsor as HB395. Again, these all seemed to be an attempt to address dissatisfaction with zoning changes in Lewis and Clark County.

### **HB529: Revise planning, zoning and subdivision regulations.**

Position: OPPOSE

Status: TABLED in first committee.

### **HB531: Revise qualified immunity laws.**

Position: OPPOSE

Status: Bill withdrawn at sponsor’s request.

### **HB606: Require opt-in for advance meter installations.**

Position: OPPOSE

Status: TABLED in first committee.

Brief: Northwestern Energy asked us to oppose this bill due to support that Missoula and Bozeman have shown previously for the company’s effort to update its meters.

### **SB77: Revise special district financing and dissolution provisions.**

Position: OPPOSE

Status: TABLED in first committee

**SB78: Revise allowable special district assessments.**

Position: OPPOSE

Status: TABLED in first committee

**SB246: Generally revise requirements for electrician licensing.**

Position: OPPOSE unless Amended.

Status: TABLED in first committee. Not Amended.

Brief: Missoula brought up concerns that this would impact its contracts with MDT under which city employees service state street lights and traffic lights within the city. The bill was amended to address this.

**STATUS OF 'OTHER' TRACKED BILLS:**

HB616: Revise laws related to adoption of tax increment provisions.

Position: NEUTRAL as presented.

Status: Passed committee

Brief: Discussions with the sponsor as well as with the League and TIF officials from cities across the state led to a "hands off" approach on this bill and HB615. The bill sponsor gave us his word he would kill either or both bills if there were any successful efforts to amend.

HB615: Revise tax increment financing laws related to bonding.

Position: NEUTRAL as presented.

Status: TABLED in first committee

Brief: See above.

**SB80: Limit duration of interlocal agreements**

Position: OPPOSE (Became neutral with amendments)

Status: Amended version transmitted to House and first committee hearing.

Brief: There were initial concerns that this legislation would limit the length of ALL interlocal agreements. The League spoke with the sponsor who was concerned only with specific zoning agreements. The sponsor agreed to a League amendment and we stood down.

SB127: Revise laws on selection of municipal judges.

Position: OPPOSE/Monitor

Status: Transmitted to the House. Awaiting exec action

Brief: Missoula and later Bozeman raised concerns with the potential fiscal impacts of having all judges be elected. There was not a lot of stomach to oppose the concept of elected judges, but the potential fiscal impacts caused some concern. At this point, we are not sure how to proceed. The bill has received overwhelming (nearly unanimous) support and our efforts to turn that around are not going to be successful.

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**SB257: Prohibit local governments from imposing carbon fees, penalties or taxes**

Position: OPPOSE unless AMENDED

Status: Successfully Amended and passed committee.

Brief: The original version of this bill raised concerns that it would limit the efforts a number of communities are involved in with Northwestern Energy and the PSC to create a “green tariff” program. The sponsor was agreeable to an amendment to specifically exempt such programs and we stood down.