The Liveliest Words in a Dead Language

The final motion of all sessions of the Montana Legislature is to adjourn “sine die” which translates as “without days” and means that there is no further business. This Latin requiem was read over the remnants of the 63rd Legislature on April 24th and the members of the House and Senate and all the others who attended the proceedings now have time and the clarity of reflection to consider the most important question in Montana politics --- “What the hell really happened this winter”?

Republican legislative candidates racked up a big score in the fall elections, winning about 60 percent of the seats in the House and Senate. It seemed that most of the conflict over the winter would be between the Republican legislative leadership and the newly elected Democratic Governor. During the November caucuses, internal pressures blew up the unity of the majority party and led to the formation of a “moderate coalition” that was able to pass the most significant measures of the 2013 Legislature.

This movement toward the middle produced results. The 2013 Legislature refinanced the pension system, authorized $100 million in building projects, increased state employee pay, provided additional grant funding for oil development impacts, covered the entire Treasure State Endowment project list, resisted most of the extreme ideas, cut income and business equipment taxes and left town with $180-million in the bank.

The following is an analysis of the issues and specific bills the League promoted or opposed in the just completed Legislature:

Pension Reform

Cities and towns agreed during the annual meeting to support “reasonable increases in employer contributions” to refinance the Public Employees Retirement System, which was running a deficit of more than $1-billion. The definition of reasonable at that time was an increase in contributions of no more than 1 percent or slightly more than $1-million**.** The Legislature approved a measure recommended by the Governor that generally meets these standards.

House Bill 454, as introduced, would have increased agency and member contributions by 1 percent and provided supplemental funding by diverting natural resource tax revenue to the pension account. The Legislature amended the bill in the final days to increase agency contributions by an additional one-tenth of 1 percent through 2024 and the measure was passed and sent to the Governor. These changes will work off the pension deficit, reduce the amortization period to 15.2 years and relieve local governments of the need to carry a large unfunded liability on their financial statements.

House Bill 97 will limit excess earnings to 110 percent of a member's previous year compensation for the purposes of calculating pension benefits. It is intended to restrict wage spiking that sometimes occurs as members are preparing to retire. The League attempted to prohibit the practice of adding insurance premiums to the definition of compensation but did not have the time to propose an amendment that would have solved this problem without opening up new complications. The Legislature passed this bill and transmitted it to the Governor for his signature.

House Bill 234 would have revised the definition of compensation in the Police and Firefighter Pension Programs to include overtime and other payments for the purpose of calculating pension benefits. The Joint Select Committee on Pensions tabled the bill.

House Bill 461 increases the amount a fire relief association can pay to retired firefighters from $225 to $300 per month. These adjustments can only be made if the retirement fund is "actuarially sound".

Capital Improvement and Public Safety Funding

Since the beginning of the oil boom along the eastern border, cities and towns in the oil patch have built a strong case to persuade the Legislature to provide funding to manage the impact of development. There is also an emerging understanding among legislators that investments in water and sewer systems pay important economic and environmental dividends.

House Bill 218 will transfer at least $10-million in Federal Mineral Royalty Payments in each of the next two fiscal years to a special account in the Department of Commerce to provide grants to local governments and schools for facilities and services that are needed to accommodate the rapidly expanding transient population in Eastern Montana. In the final days of the session, the Legislature added another $15-million from the General Fund to bring the total investment in state impact assistance to $35-million for the next two years. The bill designates most of the grant funds for water, sewer, street and road projects. It also sets aside 10 percent of the money for ongoing public safety operations.

House Bill 11, as introduced, would have funded 24 water and sewer projects for cities, towns and special districts across the state over the next two years. A joint appropriations subcommittee provided funding for an additional 22 projects. This adjustment pumped the price of the bill up to more than $30-million. The bill also specifies that the total appropriation is the only number subject to executive veto authority.

House Bill 435 would have allocated a thin slice of the money allocated to the Coal Board for impact assistance to cities along the railroad rights-of-way to fund "quiet zones". Railroad towns could have received grants of up to $200,000 if 12 or more coal trains passed through in a day. The House passed the bill but Senate Local Government Committee put it on the table.

House Bill 452 would have allowed local governments in areas impacted by oil and gas development to collect a surcharge of up to $5 per night on hotel and motel rooms and other accommodations to mitigate the effects of a rapidly expanding transient population. The Innkeepers Association and some other business interests opposed the bill. The House Appropriations Committee tabled it on a 14-6 vote.

House Bill 194 increases the competitive bidding limit on motor fuel tax expenditures from $25,000 to $80,000. A companion measure, **Senate Bill 77**, increases the limit on all local government contracts and expenditures from $50,000 to $80,000.

House Bill 239 revises the tax increment finance laws to establish "targeted economic development districts". This measure replaces statutes that authorized industrial, technology and aerospace districts that were scattered through the codes. The bill did not change the laws that apply to urban renewal.

House Bill 443 would have limited the duration of a TIF District to 30 years. The Senate Taxation Committee tabled the bill. A resolution to study TIF Districts over the interim missed the deadline for transmitting bills between houses.

Senate Bill 111 may allow three additional cities to qualify for allocation of Urban Systems funds distributed by the Department of Transportation. This change will reduce funding for other qualifying cities by about 4 percent. The League did not take a position on this bill.

Protests and Primary Elections

The controversy over a 2009 law that allows cities to establish recreation districts without a public vote is typical of what is becoming a common practice of applying statewide solutions to local problems. The League argued relentlessly through the winter that instead of passing more laws to restrict the authority of local governments, the Legislature should recognize the capability of cities and towns to manage their own business.

House Bill 185 was introduced after Billings established a Recreation District under a section of law passed by the 2009 Legislature. The bill would have required a public vote on all special districts proposed under these statutes. The House Taxation Committee tabled the bill.

House Bill 314 extends the deadline to 60 days and lowers the protest threshold to 10 percent under the 2009 Special District Laws. This bill was approved after the sponsor agreed to remove a retroactivity clause and other provisions that were not acceptable to local governments. The new law does not apply to the special district codes that cities and towns have used for nearly 100 years to finance water and sewer projects and other capital improvements.

Senate Bill 122 will eliminate the need for cities to conduct nonpartisan primaries in wards where there are fewer than three candidates.

Senate Bill 140 would have required all primaries to be held in conjunction with school elections. The stated purpose of the measure was to increase turnout for school levy and trustee elections. The Senate Local Government Committee exempted cities and then tabled the bill.

Senate Bill 133 and House Bill 496 would have allowed nonresident property owners to vote in city and town elections under certain circumstances. The Local Government Committees on separate votes in both Houses tabled these bills because of concerns about the legality of establishing property ownership as a qualification to vote.

Referenda

In recent sessions, the Republican majorities in the Legislature have referred controversial questions directly to the voters to stymie the veto power of Democratic Governors. Several of these issues will be on the ballot in 2014 including proposed changes in voter registration and primary elections that bitterly divided the Senate on a regettable day in March.

Subdivisions, Zoning and Other Land Use Disputes

As usual, the Legislature considered a flood of measures to revise the subdivision regulations and other land use statutes. There was a time in February when the House Local Government Committee seemed to be acting as the planning and development reconciliation bureau.

Senate Bill 324 is an attempt to answer the questions about the subdivision of property for rent or lease. This issue has perplexed planning staffs, landowners, attorneys and the Legislature for more than 2 years. The important feature of this bill is the provision that allow cities and towns to handle questions about the application of the law through zoning. The Legislature approved this bill.

House Bill 156 would have preempted local authority to regulate zoning, particularly the issue of multiple structures on single lots. Missoula is engaged in a community wide discussion of this issue, which more clearly than many others is a clear question of local control. The House Local Government Committee understood these arguments and tabled the bill.

Senate Bill 284 was the most dangerous bear in the woods. This bill would have opened public agencies up to a threat of litigation and large judgments on allegations that the value of property had been diminished by a government act. It came with a price tag of more than $900-million which was many more than enough reasons for the Senate Taxation Committee to nail it to the table.

Tax Abatements, Exemptions and Freezes

In most years, tax policy is generally the issue that generates the most debate, disagreement and lobbying pressure. It is also the question that is most threatening to the financial stability of local government. This year some of the attention usually focused on tax policy was diverted to pension reform and other circus atmosphere issues but there were several bills that may have and still could cause problems in local finance.

House Bill 569 would have frozen property taxes for homeowners over the age of 65. The bill would have reduced collections by more than $5-million a year when fully implemented and did not include a reimbursement provision. The House Taxation Committee tabled the measure.

Senate Bill 96 will reduce the rates and exempt a portion of the value of Business Equipment in Property Class 8. The bill provides full reimbursement of more than $11-million annually to local governments and schools for revenue lost through the reduction of taxable value. These reimbursements will be distributed through the entitlement formula after the law goes into effect next January.

Tax Deeds

The House Taxation Committee tabled three bills that would have protected Montanans from losing their property for failure to pay property taxes. Counties opposed these bills. Their lobbyists argued that the measures would lead to additional costs and complications and the loss of leverage on delinquent tax bills. Several cities are now considering programs to provide notice and even some counseling to help those who fall behind in their payments to understand the consequences and some of the options they may have to save their homes.

Entitlement Payments and the Inflation Factor

The 2011 Legislature, operating under the pressure of an imagined $240-million General Fund budget deficit, suspended the Entitlement Program growth factor for the current biennium. This was part of a general realignment of revenues and expenditures to balance the budget which eventually proved to be unnecessary because of inaccurate projections. The Legislature also revised the formula calculating the growth factor. The new metric considers personal and corporate income tax collections, which are soaring, and it is likely at this time that the entitlement growth rate will be set at the 3.5 percent limit for the next two fiscal years. This will pump an additional $4.25-million into the general accounts of cities and towns across the state.

Local governments are allowed to increase tax collections by one-half the rate of inflation under Section 15-10-420, MCA. The Department of Revenue has pegged the inflationary adjustment for the coming fiscal year at 1.03 percent.