

Montana 2019 Legislation Affecting the Cascade County Region

Prepared by: Cascade County Commission

for the
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Unified Philosophy: Great Falls City and Cascade County Commissioners generally oppose legislation that shifts or increases the burden of financing core local government services or mandating new requirements without ensuring appropriate funding sources to pay for those services.

Support for Military Operations: Great Falls City and Cascade County Commissioners recognize federal military operations in Montana are a critical source of economic health in our communities and support efforts to protect existing military assets in Montana to collaboratively address national cuts to any Montana military asset and develop opportunities for defense industry growth.

Data from 2016 indicates the Montana National Guard provides more than \$182 million in economic impetus to the State of Montana, and the total federal economic impetus of the Montana Department of Military Affairs and the National Guard to the State of Montana is over \$196 million. Malmstrom Air Force Base provides more than \$610 million in economic impetus to the State of Montana, airmen stationed at Malmstrom own over 1000 homes in Montana, military construction and service contracts provide more than \$34 million to local contractors, MAFB spends more than \$10.4 million in utilities and services over 7,000 miles of road in Montana – helping commerce. Other military installations including Fort Harrison, Limestone Training Range, Hayes Military Operations Area, MAFB, Powder River Training Range, and other Army and Air National Guard units also contribute to the state's economy.

Cascade County is affiliated with the Montana Association of Counties (MACo) to advance and protect the interests of residents within the City and County. Our residents justifiably expect the local government to provide critical public services at a reasonable cost.

Following are summaries of key issues in Cascade County and resolutions under consideration by the MACo that affect the Great Falls/Cascade County area.

1. Reciprocity

The two primary issues for local government regarding the military are encroachment near the base and the quality of life for the airmen and their families. The encroachment issue can be handled by existing local government authority but the quality of life issues require legislative assistance. In particular, the Pentagon and the Air Force in have identified the lack of professional reciprocity for Air Force family members to be a significant issue that they would like us to address. The basic premise is that Air force spouses/partners who hold professional certifications such as nursing, physical therapist as well as CPA's, attorneys and others are unable to transfer their credentials between states. As a result, there are many professionals in the Great Falls area who are unable to practice in their existing professional field. Since many of the Air Force personnel rotate on a twenty-four-month cycle, it is not cost effective for them to recertify in each new state into which they are relocated.

The result is a decrease in location satisfaction for the spouses/partners which in turn translates to a reduced job satisfaction for the military member. It also keeps a number of badly needed professionals out of our workforce. The Montana Defense Alliance has been working with the Governor's office to craft a bill that will allow an expedited path for Montana credentialing of these military spouses/partners who already hold credentials in other states.

2. MACo Resolution 2018-3 to Allow Inflation on Mill Levies

Cascade County supports legislation providing counties with greater ability to increase mills to keep pace with inflation. During the 2001 Legislature, MCA 15-10-420(I)(a) was amended to allow government entities to impose a levy sufficient to generate the amount of property taxes assessed the previous year, plus one-half the average rate of inflation for the prior three years. This methodology has yielded an average inflation adjustment of approximately 1.09% since 2001. This adjustment has not kept pace with the inflation rates facing counties when establishing COLAs for their employees, rising expenses for employee benefits, and the

rising costs of goods and services. Instead, MACo proposes removal of the “one-half” language, allowing a mill increase at a state-calculated rate of inflation averaged over the prior three years.

3. Election Proposals

Cascade County supports the following proposals by the Montana Association of Clerk and Recorders:

- Polling place hours allowing counties the *option* to open a polling place at noon if the polling place has less than 400 voters after subtracting out those on the absentee list. Currently, election officials are allowed to open a polling place at noon if the polling place has less than 400 *total* voters. However, with absentee voting on the increase, some polling places have very few voters coming to the polls. November 2018 voter counts at our remote polling places was as follows:

Polling Place Location	No. of Absentee Ballots	No. of Voters at the Polls
Vaughn	351	83
Sun River	734	171
Ulm	285	87
Belt/Monarch	773	194
Centerville	551	142
Cascade	817	235

This option would be a great tool for managing polling places rather than closing or consolidating them.

- Early preparation would allow election offices the option of opening and preparing ballots on the Thursday/Friday before the election and begin running them through the tabulators on the Monday before the election. All the current security measures for early preparation would apply, meaning counts could NOT be pulled prior to the close of elections at 8:00 p.m. on election night. The tabulators prevent an early count from occurring, as the audit log would reveal the time and person who pulled a count prior to the close of an election. Reporting voter results to the Secretary of State is a multi-step process and counts could NOT be pulled/reported prior to the 8:00 p.m. close on election night. This process would be optional for counties, but as was demonstrated in the November 2018 election, would really help large counties to complete the election count earlier than the Wednesday afternoon or Thursday morning after the election.

**4. MACo Policy #16 from the Health & Human Services Committee:
Reauthorization of Medicaid Expansion**

Cascade County supports the reauthorization of Medicaid Expansion in Montana. The HELP ACT, which extended health care coverage to Montana residents, expires in July 2019. More than 96,000 Montanans have enrolled in Medicaid expansion, keeping Montana’s uninsured rate at approximately one-half the rate before Medicaid expansion began in 2016. Bureau of Business and Economic Research (BBER) studies concluded Medicaid expansion introduced between \$350-\$400 million of new spending into Montana’s economy each year from jobs and associated medical business. BBER further reported that Medicaid expansion improves outcomes for Montanans by reducing crime, improving health and lowering debt. In 2016 and 2017, Montanans taking advantage of Medicaid expansion received more than \$800 million in health care (those are federal funds that would not have been spent in Montana otherwise). These beneficiaries resulted in fewer unpaid hospital bills, helping rural hospitals and hospitals with a high number of Medicaid eligible patients. And, Medicaid expansion saved Montana counties \$10.5 million in health care for inmates by covering care at Medicaid rates any illness or injury which required hospitalization beyond a 24-hour period. Medicaid expansion has also helped stabilize the revenues for the Cascade County Community Health Care Center, as more patients have health benefits and seek preventative medical at this clinic, rather than crisis care in a hospital emergency room.

5. Removal of \$250,000 Threshold Cap for RSIDs in INTERCAP Program

The State of Montana Board of Investments oversees the INTERCAP Loan Program providing low interest loans to Montana local governments, state agencies and universities for a variety of purposes. INTERCAP is a variable rate loan program, hence the dollar amount is limited by statute as a variable rate bond purchased under a private negotiated sale to MBOI INTERCAP. Counties normally seek INTERCAP loans for construction projects and/or major equipment purchases; however, the use of INTERCAP loan funds is also applicable for Special or Rural Improvement District (SID and RID) projects. The RID statutes define the repayment structure under MBOI INTERCAP on RID bonds. City or county funds must secure the SID/RID with a pledge to levy for and maintain their revolving fund for the maximum amount permitted by law. All local government SID/RIDs and the balance in the revolving fund are subject to review as part of the loan process. The maximum loan limit is \$500,000 and MCA 7-12-2171(b) requires loans exceeding \$250,000 to have underwriter opinions that the bonds are not marketable through competitive bond sale (two opinions are required). For a period, INTERCAP was able to purchase RID bonds up to \$500,000 with at least two non-marketability opinions from underwriters. At that time those opinions were easy to acquire since RID bonds of that size were difficult to market in competitive sales and the cost to market the bonds outweighed the value. Since the 2008 market crisis underwriters are not comfortable providing non-marketability opinions, as they might be viewed as a financial advisor with fiduciary responsibility in the transaction under new Securities and Exchange Commission (SEC) regulations. Although the MCA states "\$500,000 or less," the amount is realistically stified at \$250,000. These restrictions place an inordinate limitation on counties needing to finance major RID projects. In Cascade County, one proposed RID project (Fox Farm Road/Dune Drive) had an estimated cost of \$4+ million. Because counties must front the engineering, easement purchase, and construction costs and repayment occurs via a 15-20 year term assessment from the residents within the SID/RID, this loan limitation is unrealistic for large road projects. Cascade County would suggest removing this restriction in the INTERCAP Loan program, allowing RSIDs to the same level (\$2 million) without a vote of the people or and underwriter opinion.

The history on the \$250,000 limitation stems back to a private sector brokerage firm (underwriter) influence in crafting the original legislation.

If specific language was struck from MCA 7-12-2217(1)(b) and 7-12-4203(1)(b), it would help both cities and counties with existing road and RID projects, allowing projects up to the \$2 million ceiling.

7-12-2171(1)(b) Variable rate bonds may be sold at a private negotiated sale if the principal amount of the bonds is \$500,000 or less and the board of county commissioners obtains separate written opinions from underwriters of Montana rural improvement district bonds stating the bonds are not marketable through a competitive bond sale. Bonds sold in principal amounts below \$250,000 do not require a marketability opinion.

7-12-4203(1)(b) Variable rate bonds may be sold at a private negotiated sale if the principal amount of the bonds is \$500,000 or less and the board of county commissioners obtains separate written opinions from underwriters of Montana rural improvement district bonds stating the bonds are not marketable through a competitive bond sale. Bonds sold in principal amounts below \$250,000 do not require a marketability opinion.

6. MACo Policy #1 from Justice & Public Safety: Detention Costs & Extension of Pre-trial Services Detention Costs in County Jails

The Cascade County jail suffers from several issues including overcrowding, aging infrastructure and its use as a holding facility for prisoners with mental health and chemical dependency issues. Additionally, maintaining the jail is a financial struggle which has been made worse by actions of the 2017 legislature (HB-2 and HB-650). To balance the state's budget, the legislature placed requirements on the Department of Corrections that directly transferred costs from the state to the county jail. These actions have manifested themselves primarily in four ways:

- a) The legislature capped the daily per diem which the DOC can reimburse counties to a rate that is less than the calculated cost of incarceration. This cap affects us on all pretrial inmates that have been arrested by state agencies but are not yet adjudicated and on individuals that have been committed to Warm Springs but are awaiting a bed.
- b) The increasing delay between conviction and sentencing increases the county costs because the DOC does not pay for incarceration until after sentencing is complete.

- c) When a paroled inmate commits a new offense, it should trigger the revocation of their probation and a return to prison. However, the DOC no longer revokes their parole, instead they hold them in jail under the new charges so that county must pay for the incarceration. This also places convicted criminals into the general pre-adjudication jail population with citizens who are presumed innocent.
- d) The Cascade County Regional Detention is both a jail and a portion of the State Prison system. We have a contract with the state to hold MSP inmates in a secure environment. The contract lays out a system of calculations to determine the reimbursement rate that the county receives for housing these prisoners. The legislature unilaterally capped the rate the DOC can reimburse us in direct violation of the contracted formula.

The combination of these legislative changes coupled with the ever-increasing time between the conviction/sentencing of prisoners creates a financial burden on the county taxpayers that should correctly be a state expense.

LC 100 – Modify Pretrial Diversion Program Language (Justice Interim Committee)

Cascade County supports a request from the Office of Court Administrator and the County Attorney's Association for one-time-only funding to maintain the current level of service in its Pretrial Diversion Program. This pilot program utilizes an evidence-based detention risk assessment and provides recommendations for managing defendants who are released and awaiting trial. Five pilot counties (Lewis and Clarke, Butte Silver Bow, Lake Missoula and Yellowstone) are using the Arnold Foundation, Public Safety Assessment (PSA) tool, adapted for Montana, to analyze each defendant's current and prior criminal conduct and failure to appear in court. This assessment information, coupled with knowledge about the individual's propensity or history of violence, provides a judge with information about whether a defendant can be successful in their community while awaiting trial. Cascade County would benefit by having access to the use of the PSA tool to implement a pretrial diversion program in the county. The commissioners will need to invest resources to finance the personnel to oversee a monitoring program for those defendants assigned to pretrial diversion. The OCA believes since this has been a pilot program, an additional two years of funding would be needed to continue the program and measure its success.

7. Mental Health Crisis and Regional Jails

Mental health issues touch families across Montana; and Montanans with mental health issues are often unnecessarily housed in regional jails during times of crisis. Many of these individuals have committed misdemeanors, minor offenses like disturbing the peace or petty theft caused by delusional episodes. Due to a reduction in community services and reductions in payments to providers, many regional jails have become the proxy facility for housing Montanans in mental health crises. Diverting these individuals to appropriate mental health facilities is a priority but is not easily accomplished. With the limited number of beds at Warm Springs and the absence of a mental health crisis center in Great Falls, the regional jail becomes the alternative facility for residents suffering with mental health issues. This is far from an ideal situation. Due to its limited capacity, Warm Springs prioritizes vacancies for patients who have received a psychological assessment and been assigned by the court to the state facility. Those individuals who are not in crisis but have committed minor crimes are often kept in the regional jail until a mental health evaluation can be done by the state and an opening is available at Warm Springs. Some are detained in the regional jail for long periods until these arrangements are available; in the Cascade County facility one offender has been waiting over 850 days for an opening at Warm Springs.

Cascade County sees the need to create a crisis bed facility, but funding for the development and sustained management of such a facility is not achievable given the relatively flat tax base. Cascade County currently sets aside \$1/resident (approx. \$82,000) to supplement the Center for Mental Health's budget in providing crisis management training for first-responders and a Crisis Intervention Team (CIT) to evaluate an individual's situation and divert them from a conviction and unnecessary incarceration. Every attempt is made to prevent incarceration, which can exacerbate mental health issues and escalate a mental health crisis. The County will continue to seek long-term resolutions for our citizens suffering with mental health issues.

8. An Act Transferring Juvenile Parole Supervision from DOC to Youth Court

DOC is seeking legislation to transfer their responsibility for supervising juveniles released from a juvenile correctional facility to the local juvenile probation offices and originating court jurisdiction where the youth offended. DOC believes they cannot not maintain a statewide presence of trained and dedicated staff to handle juveniles when the number of youth on parole is very small. Because Juvenile Probation has the expertise and knowledge, and officers in each of the 22 judicial districts (providing coverage for the entire state), DOC wishes to transfer their responsibility to Juvenile Probation in the local jurisdictions. DOC believes transferring supervision to Juvenile Probation will improve service to youth and their communities and be more cost effective for the state. As represented in the Governor's budget, page D-54, this legislation shifts the burden of services and its attendant expense to local government, as cost savings to the DOC would be re-absorbed into the state operation rather than distributed to the local level. This legislation illustrates the "shift of burden" philosophy which is opposed by both the county and city.

More specifically, this legislation seeks to:

- transfer juvenile parole supervision from the Department of Corrections to the Youth Court
- change the term "parole" to "conditional release" and define the term "conditional release"
- provide that establishment of a youth placement committee be permissive rather than mandatory
- provide a procedure within the youth court for conducting a conditional release revocation hearing

Additional issues to be considered:

- additional workload and costs for services and placements provided by Juvenile Probation
- costs previously paid by the DOC (transportation and detention) will shift to the counties
- the cost of the DOC FTE will be transferred to OCA rather than redistributed to counties
- DOC Juvenile Community Corrections budget is to be transferred to OCA rather than distributed to counties

9. Medium-Cost Housing Shortage

Great Falls and Cascade County suffer from a housing shortage both in terms of rental stock and homes available for sale in the mid-range of pricing. The current environment provides a competitive disincentive for the building of homes in the mid-range of pricing. Instead developers focus on building the more profitable high dollar homes as the risk and regulatory issue are the same as with lesser priced homes, but the profit potential is much higher on the higher dollar homes. A method needs to be created to incentivize the building of mid-range priced housing stocks. Some suggestions might be a tax credit for the construction of new or remodeled rental housing that is structured like the historic tax credit, a reduced property tax percentage rate for rental housing or a tax credit per unit of mid-price range housing constructed.

10. Appraisal of Centrally Assessed Properties

The largest dollar value of the tax protests happening each year in Cascade County come from those properties handled by the Central Assessment office in Helena. The properties that they assess include industrial properties, those which cross county lines such as telecommunications system and pipelines and properties that are a portion of a larger system like the electric generation facilities located in Montana. These appraisals tend to be the most complex and the largest dollar amounts in the state.

Under the current system, disagreements over the valuation take extended periods of time to resolve through negotiated settlements or by large dollar tax protests. The disruption to local government operations and property values is significant. A different system is needed to handle tax protests that result from the centrally assessed property. If the taxable valuation of the property in dispute was not changed in the Orion property tax system until agreement was reached between the taxpayer and the Department of Revenue, the local government would be insulated from the disruption of the protests. The burden of holding the protested taxes would be on the state and once settlement reached, the state could then make the local government entities whole from the funds that were paid under protest. This would also protect the

taxpayers from the artificial increase in the maximum amount of allowable levied taxes that occurs with these protested assessment amounts.

By way of example let say an oil refinery does a significant upgrade that DOR believes adds \$50 million to the property's taxable value but the refinery believes that it should have only added \$10 million. Currently, \$50 million of value would be added to the county's aggregate taxable value as newly taxable property. The county would levy taxes on the additional \$50 million value but be required to hold in protest the taxes on the disputed additional \$40 million value. Once the protest is settled, the county would refund with interest to the refinery the difference between the original taxes levied and the settled amount due.

However, under the current system, the taxable value of the county has already been increased by \$50 million and an artificially large amount of taxes has been billed. Since the amount of taxes that a jurisdiction can levy each year is based on the amount billed in the prior year the maximum amount of taxes that can be levied in subsequent years have been artificially increased. This adjustment occurs at the same time the refinery's tax bill has been lowered to reflect the settled amount, so the rest of the property tax payers are required to make up the difference.

11. DNRC Projects in Cascade County – the following is provided for information

Cottonwood No. 2 Ditches

Cascade County received a planning grant from DNRC to investigate and design a ditch repair to prevent acid mine drainage from the Cottonwood No. 2 Mine from damaging people's homes and property in Stockett. The DEQ Abandoned Mine Lands (AML) Program has applied for a DNRC Reclamation and Development Grant (RDGP) to partially fund the ditch reconstruction. The DEQ AML Program requested \$300K and would match that money with \$200K of AML grant funds. The ditches, constructed in the early 1990's have failed and need complete reconstruction to capture the acid mine drainage and divert it from homes and private property. The RDGP (DNRC) ranked the Cottonwood No. 2 project number 8 in their list. Funding cutoff is likely at the project ranked number 7. The DEQ with Cascade County will present the project during the hearing for the RDGP (HB 7 and HB 14) to the Long-Range Planning Committee in January 2019.

Reauthorization of the Abandoned Mine Land Fee

The fee that funds the Abandoned Mine Lands (AML) Programs across the nation is set to expire in 2021. Fees are assessed on coal mined in a state on a per ton basis. Funds are returned to the States and Tribes through federal grants overseen by the Office of Surface Mining Reclamation and Enforcement (OSMRE). The AML Program is dedicated to protecting human health and the environment from the hazards left by abandoned mines. Abandoned mines are, by definition, those who pre-date modern mining regulations that require reclamation. Abandoned mines present a safety risk, degrade the environment and stifle economic opportunities preventing beneficial uses and precluding redevelopment of properties. If the fee is not reauthorized, the Montana AML Program would not have the funding needed to continue reclamation work in the state. On average, Montana receives \$4 million in grants per year to reclaim abandoned mines, with a small overhead, those funds (94%) go directly into good paying engineering and construction jobs and services. Without the AML Program there would be no program left to fund emergencies associated with abandoned mines such as subsidence (hazardous openings), landslides and mine fires.

Reauthorization of the AML Program will likely be debated in Congress beginning in the House Natural Resources as soon as this January. With over \$10 billion left in unfunded mine hazards remaining in the United States, there is still a great need for AML funding and AML programs.



The Montana Association of Counties (MACo) was organized in 1909 to anticipate rapidly changing and complex challenges facing Montana's 56 county governments. The following MACo Resolutions were adopted by deliberative assembly at the September 2018 MACo Annual Convention in Missoula, MT and pertain to Cascade County.

Montana Association of Counties Resolutions Requiring Legislation in 2019

Res. No.	Resolution Short Title	Bill No.	LC No.	Sponsor	Bill Short Title/Description
2018-03	Allow Inflation on Mill Levies				Provide counties with more stability in times of inflation and the ability to more effectively meet their needs with a decreased necessity to ask citizens for mill levy increases or to look to the Montana Legislature for funding assistance.
2018-04	Clarifying County Attorney as Legal Advisor				Establish clarification by the Legislature that the county attorney's first obligation is to the governing body if a conflict exists between the board of county commissioners and
2018-05	Cost of Care for Animals Seized in Alleged Animal Welfare Violations				Establishes legislation to assign the costs of care for animals seized in alleged animal welfare violation cases to the animals' owners or require forfeiture of the seized animals by the owners so that the animals may be offered for adoption to individuals willing and able to commit to their care.
2018-07	Destruction of Public Records Requiring an Order of District Court or Probate Court				Expressly authorizes local governments to dispose of or destroy public records, without an order from the court.
2018-11	Lifting of Agricultural Covenants in Limited Situations				Allows the County Commissioners to lift agricultural covenants imposed under Section 76-3-207(1)(c), MCA in limited situations.
2018-12	Noxious Weed Management Funding				Seeks to increase funding for counties and tribes to fight noxious weeds.
2018-13	Public Records Protection				Amends MCA 2-6-1017 to clarify the privacy interest of people interacting with their government and prohibit the commercial and political use of lists created from any such governmental interaction.
2018-14	Removing Mobile Homes from the Tax Rolls				Clarifies the process for the Montana Department of Revenue to permanently remove an unusable mobile home from the tax rolls.
2018-16	Require that Parcels Exempt from Subdivision Review Provide Legal Access				Requires parcels created through the exemptions from subdivision review in MCA 76-3-201 and MCA 76-3-207 must provide legal access.
2018-17	Revise Definition of Electioneering Communications				Amends the definition of Electioneering Communications to exclude registration requirements for regular and normal communications by a local government to the public regarding a ballot issue put before the voters by the local government's governing body, including by not limited to education, outreach, public meetings or hearings, and dissemination of information related thereto.
2018-19	Setting Speed Limits				Establishes legislation to amend MCA-61-8-310 to allow counties to set speeds at less than 35 mph on paved roads in suburban subdivisions when warranted by an engineering investigation.
2018-20	Setting Speed Limits in School Zones				Removes the current mandate for an engineering or traffic investigation in the areas near a school and provide the county commissioners discretion to establish school zone speed limits not less than 15 mph.

Great Falls and Cascade County leaders are committed to tracking legislative actions that may affect our region. We are available for questions on evolving legislation.

Please contact us if you have questions on a bill proposal.

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