

G. ANDREW ADAMEK  
CHAD E. ADAMS  
DANIEL J. AUERBACH  
KIMBERLY A. BEATTY  
TROY L. BENTSON  
SARA S. BERG  
LEO BERRY  
LAURA K. BUCHHOLTZ  
CARLO J. CANTY  
MARK D. ETCHART  
STEVE J. FITZPATRICK  
OLIVER H. GOE  
J. DANIEL HOVEN



**BROWNING KALECZYC  
BERRY & HOVEN P.C.**  
ATTORNEYS AT LAW  
Bozeman • Great Falls • Helena • Missoula

JUDD M. JENSEN  
CATHERINE A. LAUGHNER  
CHRISTY SURR MCCANN  
MICHAEL L. RAUSCH  
BRIAN P. THOMPSON  
EVAN M. THOMPSON  
W. JOHN TIETZ  
STEVEN T. WADE  
LAURA E. WALKER  
LEO S. WARD  
MORGAN M. WEBER  
R. STEPHEN BROWNING : RETIRED  
STANLEY T. KALECZYC : OF COUNSEL

**Mailing Address**  
POST OFFICE BOX 1697  
HELENA, MONTANA 59624-1697  
TELEPHONE (406) 443-6820  
bkbh@bkbh.com

**Street Address**  
800 N. LAST CHANCE GULCH, #101  
HELENA, MONTANA 59601-3351  
TELEFAX (406) 443-6883  
www.bkbh.com

May 12, 2017

### **2017 Montana Legislative Wrap-up**

The 2017 Regular Session of the Montana Legislature adjourned on April 28, 2017 after 88 legislative days. Both chambers were controlled by the GOP (59-41 in the House; 32-18 in the Senate) while the Governor's office is occupied by two term Democratic Governor Steve Bullock. The other statewide positions are all held by Republicans (Attorney General Tim Fox; Secretary of State Corey Stapleton; State Auditor Matt Rosendale; and Superintendent of Public Instruction Elsie Arntzen), meaning that the State Land Board is controlled 4-1 by Republicans.

### **2018-2019 BIENNIAL BUDGET**

The largest issue facing this year's session was the state's budget. Coming into the legislative session, revenues over the previous biennium had not met expectations and the State was dipping into reserves in order to fund its programs. The House Appropriations Committee and the Senate Finance and Claims committee funded the 2019 biennium through a mix of agency budget cuts, fund transfers from a variety of proprietary accounts, and tax increases. Additionally, the State's 2018 – 2019 highway funding was projected to be insufficient to match available federal monies used to build Montana's highways. To address these highway funding issues, the Legislature cut MDT spending and also approved an increase to the state fuel tax to ensure that the maximum available federal funds could be leveraged, and provide additional funds to local governments for road and bridges.

### **BONDING FOR INFRASTRUCTURE**

Infrastructure bonding for specified projects was a topic of considerable discussion and negotiation for the third session in a row. Like the previous several legislative sessions, the Legislature and the Governor were unable to agree on an infrastructure bonding bill. Bonding was the most significant final remaining issue of the session, and several days at the end of the session were spent in negotiations and discussion. Related issues were debates over what were considered "infrastructure" in the bonding bill. There are those that do not believe vertical buildings are infrastructure and objected to their inclusion.

In the final days of the session, there were several votes taken on the two similar bonding bills. On every occasion, the House of Representatives failed to attain the required 2/3 vote of the chamber needed to pass a bonding bill. The chamber was only 2 to 3 votes short of the required 67 on several of the last votes on these bills. In retaliation for failing to pass a bonding bill, the Democrats withheld votes on HB 8 (a bill providing loans for water projects across the state) since it required a super majority of 75 votes in the House was enough to defeat the bill – something that has not occurred since 1991.

## **ENVIRONMENTAL AND ENERGY ISSUES**

A popular topic this session was the net-metering of energy. Several bills attempting to alter net-metering laws were introduced, though few impactful changes to the current code were enacted by the Legislature.

Other Environmental and Energy issues explored during the session included efforts to disband the Board of Environmental Review (which is currently awaiting Governor action), efforts to allow the State Land Board to extend coal leases (also awaiting Governor action), and bills introduced to alter default rules for oil and gas leases (which was not passed by the Senate).

As it currently stands, the Governor must fill 7 seats on the Board of Environmental review if the bill disbanding the BER fails to become law. This is due to all of the board members appointed after the 2015 Legislative Session being denied confirmation by the Senate during the 2017 Legislative Session.

## **JUDICIAL AND CRIMINAL JUSTICE REFORM**

The Legislature provided for a modest increase in the number District Court Judges in Yellowstone and Missoula counties and also undertook a significant amount of criminal justice reform by reducing the penalties for some crimes with the goal of lowering state correctional costs and mitigating some of the social costs associated with lengthy incarceration for non-violent crimes. Many of these criminal justice reform bills were bi-partisan efforts.

## **TAX POLICY**

While there were many bills introduced to alter taxes and tax policy in Montana (including a local option sales tax, an expansion of the resort tax, replacing property tax with sales tax, and implementing a general sales tax), few changes made it through the process. Aside from targeted and specific tax relief for some industries (such as the removal of the 10 year sunset for new pollution control installed after 2014), an earned income tax credit for low income individuals, and adoption of a multistate tax compact providing for the taxing of companies attaining revenue in Montana but not located in Montana, no significant changes were made to the Montana tax structure.

## HEALTHCARE

Finally, there were many bills introduced attempting to deal with the cost of medical care. Most of these bills addressed the disclosure and transparency required of healthcare providers and insurers and the significant costs of air ambulance service that is often bourn by individuals. In the end, there were few significant changes in this field as all but one of the bills addressing these issues died in the process. The healthcare transparency bill that did pass (SB 362) will be on the Governor's desk soon. SB 44, which addresses air ambulance service in Montana, has already become law after it was passed by the Legislature and signed by the Governor. Specifically, SB 44 attempts to regulate what costs can be billed to the insured, what costs the insurer must bear, and what medical providers must do regarding air ambulance service.

## LEGISLATURE TERM AVAILABILITY

### House

The Montana House of Representatives is the lower chamber of the Montana State Legislature, and representatives are eligible to serve four (4) two-year terms. Due to term limits, the following Representatives will be ineligible to run for re-election to serve in the House in the 2019 Legislative Session :

<i>Name</i>	<i>Dist.</i>	<i>Term Limit Date</i>
• Bennett, Bryce	91	2018
• Brodehl, Randy	9	2018
• Cook, Rob	18	2018
• Court, Virginia	50	2018
• Cuffe, Mike	2	2018
• Ehli, Ron	86	2018
• Flynn, Kelly	70	2018
• Greef, Edward	88	2018
• Harris, Bill	37	2018
• Hill Smith, Ellie	90	2018
• Knudsen, Austin	34	2018
• Lavin, Steve	8	2018
• Price, Jean	24	2018
• Swanson, Kathy	77	2018

**Senate**

The Montana Senate is the upper house of the Montana State Legislature, and senators are eligible to serve two (2) - four-year terms in office. Due to term limits, the following Senators will be ineligible to run for re-election to serve in the 2019 Legislative Session:

<i>Name</i>	<i>Dist.</i>	<i>Term Limit Date</i>
• Buttrey, Ed	11	2018
• Caferro, Mary	41	2018
• Facey, Tom	50	2018
• Jones, Llew	9	2018
• Moore, Eric	19	2018
• Vincent, Chas	1	2018
• Vuckovich, Gene	39	2018

**PUBLIC SERVICE COMMISSION TERM AVAILABILITY**

The Montana Public Service Commission is a five-member board responsible for regulation of energy, telecommunications, water/sewer, transportation and pipeline utilities in the state. The commissioners each represent one of the five districts in Montana. Commissioners are elected to four-year terms and are limited to serving two terms (or eight years) in any 16-year period. Due to term limits, the commissioners are ineligible to run for re-election in the elections held in the years below:

<i>Name</i>	<i>District</i>	<i>Term Limit Date</i>
• Travis Kavulla (Vice Chairman)	District 1	2018
• Tony O'Donnell (Commissioner)	District 2	2024
• Roger Koopman (Commissioner)	District 3	2020
• Bob Lake (Commissioner)	District 4	2020
• Brad Johnson (Chairman)	District 5	2022