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PSC 383.01: Montana Legislature - Role, Realities and Reform

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Political Science 383
State Politics - The Montana Legislature: Role, Realities and Reform
SPRING SEMESTER – 2008

Wednesday: 4:10 to 6:30 p.m.
Liberal Arts 303

Course outline

Instructors: Bob Brown; Dave Wanzenried

Course objectives: Through the use of high-profile players and practitioners in the legislative arena, to provide students with comprehensive understanding of the functions and operations of the Montana Legislature and an appreciation of the issues confronting the institution; encourage critical thinking about how the Legislature might be reformed to reflect the fiscal and political realities of the Twenty-First Century; require working group collaboration to develop reform proposals based on knowledge acquired during the course.

Requirements:

Group project with presentation: 35 percent

Midterm examination: 25 percent

Final examination: 25

Class attendance and participation: 15 percent

Required readings: Electronic reserve. Password: PSC383

Classes:

23 January 2008

INTRODUCTION: HISTORICAL PERSPECTIVE

“Citizen Legislature”

Major structural and operational differences of the Legislature under 1889 and 1972
Constitutions

Discussion:

Qualifications

<http://leg.mt.gov/css/about/default.asp>

Current structure and processes:

2 chambers: Senate – 50 members; House - 100 members

Legislative officers (presiding; caucus) and appointed officers (Clerk of the House; Secretary of the Senate)

Rules – House; Senate; Joint rules

<http://www.leg.mt.gov/css/about/default.asp#leadershiprules>

Rules Committee and Interpretations of Rules by Presiding Officers: Oral history - no codification

Authority and power presiding officers: House v. Senate

Committee system and Committees – where the real work gets done

Committee of the Whole

Differences between House and Senate operations: Committee appointment process; “three minute rule”; voting process – open v. closed voting board; office space; general decorum.

Readings:

The Montana State Constitution: A Reference Guide. Larry M. Ellison and Fritz Snyder. 2001. pp. 1-23; 106-123.

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30 January 2008

PROCESS

The Executive Budget and the Appropriations Process

Guests:

1. Clayton Schenck, Legislative Fiscal Analyst. Schenck is the Legislative Fiscal Analyst for the Montana Legislature, an appointed position. He was born and raised in Montana (Shelby). He has a Bachelor's Degree from the UM School of Business (1971), and a Masters of Business Administration from George Washington University (1976). He has been a licensed Certified Public Accountant since 1971. Clayton has been with the state legislative staff for 22 years, and has been the Legislative Fiscal Analyst for over 14 years. Prior to that he was with a CPA firm in Helena, and is a retired US Navy officer (30 years active and reserve service). His outside interests are both summer and winter recreation, particularly hiking, in the great Montana outdoors. And he is an avid Grizzly fan.
2. David Ewer, State Budget Director . Ewer previously served as a researcher for the board of investments and former state legislator. Ewer also served as the Deputy Director of the Montana Board of Investments and as a senior bond program officer. Prior to working for the Montana Board of Investments, Ewer worked as the Assistant Vice President and as

an Investment Officer for InterFirst Bank in Dallas, Texas. Ewer served in the Montana House of Representatives for eight years and perhaps is best known for his opposition to electric deregulation. He was candidate for State Auditor in 2000. He received his Bachelor of Arts with high honor from Northeastern University in Boston and a Masters in City and Regional Planning from Harvard University, John F. Kennedy School of Government. He is married and has two daughters attending college.

Readings:

Fiscal Training Manual. Office of Legislative Fiscal Analyst. Helena. 1989. pp. 2 – 11.

Understanding State Finances and the Budgeting Process: A Reference Manual for Legislators. Legislative Fiscal Division. 2007. Entire booklet.

“Oregon: The Influence of Direct Democracy on Budget Outcomes.” Bill Simonson. Budgeting in the States: Institutions, Processes and Politics. Edward L. Clynch and Thomas Lauth, editors. 2006. pp. 119-135.

Clynch and Lauth. Budgeting in the States. pp. 1-7.

Goals and questions: To become acquainted with the executive budget and legislative appropriations processes and to develop a critical perspective about weaknesses in the current systems. To understand how the Legislature reviews and analyzes requests for funding and develops priorities. To better understand the scale and magnitude of spending that are off-budget, that is, statutory appropriations and general fund transfers. To appreciate the challenges presented by budgeting for a two-year period, that is forecasting expenditures and revenues as much as two and on-half years in advance. To develop ideas as to how the processes may be improved. How can the Legislature better ensure that the appropriated are actually expended in the manner authorized and producing the intended results? How might expanding the ability of the Legislature to oversee the operations of the executive branch raise concerns about separation of powers?

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February 6, 2008

PROCESS

Legislative process: How does a bill really become law?

Guests:

1. Susan Byorth Fox, Director – Legislative Services Division. Grew up in Billings; attended Gonzaga University and earned a Bachelor's degree in Sociology and minored in Political Science; Masters Degree in Sociology from the University of Montana. Thesis, based on a professional project, was entitled "Rules, the Judge, and the Lawyer in the Court System Bureaucracy." Worked in the Legislature since 1989, first in temporary

positions with the Senate (Bills Coordinator) and the House (Amendments Coordinator), and in 1992 started as a full-time Legislative Research Analyst. Have worked in many policy areas including public health and human services, specifically mental health, corrections, criminal justice, and have provided research services for two rounds of redistricting. Became Executive Director of the Legislative Services Division in July of 2006. Legislative Services provides the legal, research and central IT and financial support for the Legislature. My permanent positions in the Legislature have all been nonpartisan positions serving both chambers and both parties.

2. Mark Staples, Attorney, Lobbyist – confirmed
3. Jacqueline (Jackie) Lenmark, Attorney/ Lobbyist – confirmed

Readings:

<http://www.leg.mt.gov/css/research/faqs/howbill.asp>

Legislator Educational Information. Legislative Services Division. Helena. 1998. Entire booklet.

Training Legislators: An Option for Montana. Joan K. Miller. Masters Thesis. Missoula. 1991. pp. 1-7; 19-31; 32-44.

A Legislator's Handbook. Legislative Services Division. Helena. 2001. pp. 1-61; 69-71; 91-107; 113-129.

“Bill Volume: What’s the Problem?” Will Hammerquist. Montana Policy Review. Spring 2006. pp. 17 – 20.

Goals: To become acquainted with the constitution regarding how the Legislature processes proposals and decides which become laws and which do not. To understand the challenges facing the Legislature in processing in excess of 1,800 bills per session and proposals intended to improve the Legislature. For example: Should there be a limit on the number of bills each legislator may introduce? Should each bill be confined to a ‘single topic’ or should bills address more than one topic and thereby reduce the total number of bills? To understand how the committee process works (e.g. how bills are referred; hearings; committee deliberations and actions) and the role that lobbyists play in the legislative process and how they attempt to influence the process on behalf of their principal(s). To appreciate the challenges facing the Legislature to complete its work within the required timetable (mid-session; various transmittal deadlines for amended bills; end of session).

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February 13, 2008

STRUCTURE

Bicameral v. unicameral system: What can we learn (if anything) from the Nebraska system?

Guests:

1. Lorents Grosfield. Long-time member of the state Senate from Big Timber.
2. Mike Kadas. Long-time legislator and former Mayor of Missoula. Mike has a BA in Philosophy/Economics and an MA in Economics, both from UM; has worked as a carpenter and adjunct professor; was a member of the Montana House of Representatives for seven terms, 1983-1996 and was Mayor of the City of Missoula for ten years 1996-2006.

Number of members in each house of the Montana Legislature

Constitutional range: 80 to 100 members

House of Representatives – each member represents approximately 9,400 Montanans; each Senate district is comprised of two House Districts

Close to the people?

Impact of population trends: westward shift results in dramatically larger geographical districts in eastern Montana

Frequency of sessions

Biennial v. biennial

1974 Legislature – the only ‘annual’ session ever

1974 Initiative to restore biennial system (passed 110,587 – 104,581)

Length of sessions

90 legislative days

60 legislative days

45 legislative days

Readings:

The Legislature. – Montana Constitutional Convention Studies. Montana Constitutional Convention Commission. Helena. 1971. pp. 35-55; 83-86.

<http://www.unicam.state.ne.us/web/public/history> : History of the Nebraska Unicameral; Lawmaking in Nebraska; The Budget Process; On Unicameralism.

http://www.house.leg.state.mn.us/hrd/pubs/uni_bicam.htm : Unicameral or Bicameral Legislatures: The Policy Debate.

Goals: To understand how and why the Legislature is structured the way it is. Why not reduce the number of members who serve in the Legislature? What is a unicameral system? Would the Montana public be better served by a one-house, unicameral legislature? What are the tradeoffs? We ought to run government more like we run a business.” From a business standpoint, does it make sense for the board of directors (Legislature) to meet continuously for four months and then not convene again for 20 months?

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February 20, 2008

Initiative process and direct democracy– what are the voters trying to tell the legislature?

Guests:

1. Rob Natelson, University of Montana Law School Professor. For biography, go to:
<http://www.umt.edu/law/faculty/natelson.htm>
2. Jonathan Motl, Attorney/ Lobbyist – confirmed.

Landmark enactments

Revisions enacted by 2003 Legislature.

Term limits: What were the voters thinking?

1992 initiative: 8 years in 16-year period (passed 264,174 – 130,695)

2004 referendum: 12 years in 24-year period (failed 299,162 – 136,931)

‘Career politicians’

‘New blood’ – mandatory turnover

Institutional memory

Readings:

Listing of constitutional and constitutional referenda and initiatives

Rolling the Dice with State Initiatives: Interest Group Involvement in Ballot Campaigns. Robert M. Alexander. 2002. pp. 1-9; 109-118.

“The Logic of Reform: Assessing Initiative Reform Strategies.” Elizabeth R. Gerber. Dangerous Democracy: The Battle over Ballot Initiatives in America. Larry J. Sabato. Howard R. Ernst and Bruce A. Larson, editors. 2001. pp. 143-172.

“Signature Gathering in the Initiative Process: How Democratic Is It?” Richard J. Ellis. Montana Law Review. Winter 2003. pp.

“Direct Democracy in Montana.” Bob Brown. Montana Policy Review. Spring 2006. pp. 32 – 33.

Term Limits and the Dismantling of State Legislative Professionalism. Thad Kousser. 2005. pp. 1 - 21; 53 - 58; 151 - 156; 164 - 176; 203 - 220.

Term Limits and Legislative Representation. John Carey. 1998. pp. 1-14; 63-66; 184 -200.

“The Montana Legislative Assembly and Term Limits.” Jerry Calvert. Montana Policy Review. Spring 2006. pp. 4 – 9.

Democratic Delusions: The Initiative Process in America. Richard J. Ellis. 2002. pp. 177-203.

Goals: To better understand the initiative process and how it has been used to shape and re-shape public policy. What policies has the initiative process resulted in? To understand the past and present issues surrounding the initiative process. Does the initiative process jeopardize 'good public policy'? To appreciate the origins of the term limits initiative in 1992 and to determine how well term limits have fulfilled the petitioner's goals.

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February 27, 2008

Workload: A day, a week, a month in the life of a legislator

Possible Guests:

1. Mike Halligan, long-time member of the Montana Senate - confirmed
2. Jim Shockley – State Senator - confirmed

Number of bills: Ideas/ proposals to limit
Committee process
Number of committee assignments
Transmittal deadlines
Hours
Working conditions
Technology
Personal staff
Office space

Readings:

A Weekly Look at the Labors of Montana Citizen Lawmakers. Jason C. Mohr. Masters Thesis. 2001. pp. 1 - 42; 78 - 84; 98 - 104.

Goals: To acquire insights as to the personal side of the Legislature while it is in session. Develop a better understanding of the schedules required to process the work of the Legislature; numerous hours spent listening to testimony in committees, acquiring/ absorbing facts and concepts, interacting with lobbyists, understanding how proposed policies and programs affect their constituents; responding to inquiries from constituents. The effects of 'crunch time' involved with various transmittal deadlines.

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March 5, 2008

Legislative agencies: Functions and responsibilities and The Interim: 20 months between sessions

Guests: Scott Seacat, Legislative Auditor;

Todd Everts, Environmental Quality Council;
Lois Menzies, former Director of Legislative Services Division;
Bob Person, former director of Legislative Services Division.

Fiscal Division
Audit Division
Legislative Services
Environmental Quality Council

Interim Committees
Research
Oversight

Readings:

A Legislators Handbook for Participation in Interim Study and Activities. Legislative Services Division. Helena. Entire booklet.

Goals: The public generally associates the work of the Legislature with activities and actions while it is in session. This session is intended to convey the importance of the research and associated work that is done while the Legislature is adjourned. How the Legislature determines which issues will be studied. To understand how legislative branch agencies are organized to staff interim activities, as well as continue to perform a multitude of statutory, as well as constitutionally prescribed, functions.

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March 12, 2008

Reapportionment: Process and Issues

Possible Guests: Joe Lamson; Erik Iverson

One man, one vote: Baker v. Carr; Reynolds v. Sims
Constitutional-based process: Montana Reapportionment Commission
Compared to other states
Issues with each apportionment since 1972: 1973, 1983, 1993, 2003
General issues

Readings:

Apportionment and the Montana Legislative Assembly. Douglas C. Chaffey. 1964.

“One Cow, One Vote – A Strenuous Session in the Montana Legislature.” Margaret Scherf. The Last Best Place. 1966. pp. 249-262.

“The Legislative Assembly in Modern Montana Constitution.” Ellis Waldron. Montana Law Review. Winter 1972. pp.

Primer on Districting and Reapportionment – Basic Facts. Susan Byorth Fox. Legislative Services Division. 2001.

http://montanamainstreetblog.typepad.com/montana_main_street_blog/2007/10/reform-of-the-1.html

Goals: Develop an understanding about reapportionment and why legislative districts must be reapportioned. Better understand how the reapportionment process works in Montana. What are the issues surrounding reapportionment? How is the composition affected by reapportionment? Is the reapportionment process in need of reform?

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March 19, 2008

MIDTERM EXAMINATION

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Week of March 24, 2008 – SPRING BREAK

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April 2, 2008

Balance of partisan power since 1965: Does the partisan make-up of the Legislature really matter?

Possible Guests: Harry Fritz; Jim Murray; Fred Thomas; Steve Doherty; Aubyn Curtiss

Do the results of each session bear out differences between parties?

What is bipartisanship? Is statesmanship alive in the Legislature?

Role of political parties in legislative deliberations

Party platforms

Caucus system

Sunshine: Open v. closed

Balance of Power in Montana Legislature and Office of Governor: 1961 – 2008.

Goals and questions: Observers of the Legislature suggest that the products of the Legislature’s actions accurately reflect the partisan composition of each session. That is that policy initiatives (health care; environment; economic development) and spending priorities (programs v. tax reductions) generally follow the stereotypes generally ascribed to each political party. Is that general assessment generally correct? If it is, what specific policies enacted by specific

legislative sessions bear this out? In terms of "getting things done," is Montana better served by when one party controls both houses? Better served when one party controls both houses and the Governor's office?

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April 9, 2008

Special sessions: There is nothing 'special' about a special session

Guest: Chuck Johnson. Chief, Lee Newspapers State Bureau. Johnson, a Great Falls native, was raised in Helena. He remembers a number of Boy Scout and school class visits to the Capitol to watch the Legislature and found it fascinating. He received a bachelor's degree in journalism from the University of Montana in 1970. He spent a quarter in Washington as a Sears congressional journalism intern in 1970 and a quarter in Helena at the Legislature as a UM political science intern in 1971. He received a bachelor's degree in history from UM in 1978. He studied politics and economics at Oxford University in England on a Rotary Foundation Fellowship in 1978-79. Johnson has been a statehouse reporter since 1974 for Lee Newspapers (1974-77), the Great Falls Tribune (1977-92) and Lee Newspapers again (1992-present). He has been chief of the Lee Newspapers State Bureau since 1992 and headed the Great Falls Tribune Capitol Bureau from 1984-92. He also covered the Montana Constitutional Convention for the Associated Press in 1972 and worked for the Missoulian from 1972-74.

Why?

How?

When?

Goals: There are times when the Legislature does not "get it right" and the fix cannot wait until the Legislature reconvenes in general session. Additionally, the Legislature cannot always anticipate developments that require immediate attention. This session is intended to illustrate the reasons for and results of special sessions, to examine trends that suggest an increasing dependence on special sessions to address issues and to devise fixes outside of general sessions. Is the public well served by special sessions and is it able to participate in a meaningful way in the deliberations? Does the increasing frequency of special sessions suggest that either the workload of general sessions be reduced or the time available increased?

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April 16, 2008

Legislature versus Executive: Ascendance of Gubernatorial Power?

Possible Guests: Jim Lopach; John Mercer

Generally

Administrative Rules and Rule-making: Transfer of legislative authority to the executive

Goals: Contemporary wisdom suggests that deliberative bodies like the Legislature suffer from a lack of confidence on the part of the public. This, coupled with other factors such as term limits and biennial sessions, have served to weaken the Legislature as an institution and the correspondingly increase the power of the Executive. Is this assessment accurate? If it is, in what ways does the Executive derive and exercise the power?

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April 23, 2008

Reinventing the Legislature: Time for Reform?

An evaluation

Group presentations

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April 30, 2008

Starting over: Creating a legislative system from the ground up

Group presentations

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May 6, 2008

3:20 – 5:20 p.m.

FINAL EXAMINATION