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An Analysis of the Revenue Authority
of Self-government Units in Montana

by

Charles Clark Stearns

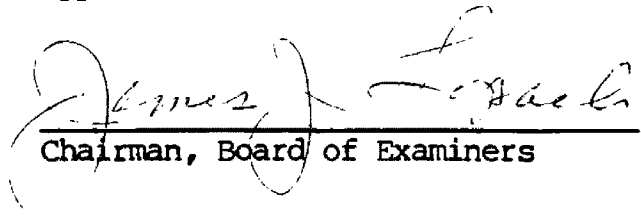
B.S., University of Colorado, 1979

Presented in Partial Fulfillment of the Requirements for the Degree of
Master of Public Administration

UNIVERSITY OF MONTANA

1985

Approved by:


Chairman, Board of Examiners


Dean, Graduate School

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PREFACE

EXECUTIVE SUMMARY

This paper examines the revenue authority of self-government units in Montana. Self-government powers, as outlined in the 1972 Montana Constitution, were meant to allow local governments more control, more flexibility, and also to increase their accountability. The paper examines the constitutional intent, legislative implementation, judicial review, and two case studies of self-government units' revenue authority.

The constitutional intent is documented by researching the historical records of the 1972 Montana Constitutional Convention and by recent interviews with selected delegates from the convention. The major finding in this section was that the delegates, without giving an expressly worded mandate, did intend for self-government units to have additional revenue authority. In addition, there was a hope that this revenue authority would allow for diversification of revenues away from the property tax.

Chapter three analyzes the legislative implementation by reviewing the laws enacted since 1972 which affected self-government units. The analysis of judicial review is based on decisions in three Montana Supreme Court cases. This chapter provides evidence that the only additional revenue authority attained by self-government units is the freedom from mill levy limits and expanded licensing authority.

Two case studies are examined to support the analysis in chapter three. Two cities, Helena and Bozeman, were chosen because they

matched up very well on various factors except for legal authority; Helena has self-government powers and Bozeman does not. The similar backgrounds suggest that any difference in revenue diversification may be the result of the different legal authorities. Revenue authority is measured on the basis of six major revenue categories. Although Helena's revenue trends reveals more revenue diversification than occurred in Bozeman, evidence is provided that links most of this difference, not to self-government powers, but to the factors of:

- 1) Helena's more aggressive use of laws allowed for all local governments;
- 2) extenuating financial conditions in Bozeman that limited the levels of some non-tax revenues, especially in fiscal years 1983 and 1984.

The additional licensing authority gained by self-government units is used by Helena, but this power does not yield significant amounts of revenue.

The final chapter reviews the paper's chapters and provides some insights into the likelihood of self-government units gaining additional revenue authority in the future. The major recommendation is for the 1985 Montana Legislature to fulfill the 1972 Constitutional Convention delegates' intent by giving additional revenue authority to self-government units. It is recommended that the 1985 Legislature consider allowing only self-government units the additional revenue authority of a local option income tax.

CHAPTER ONE

INTRODUCTION

True democracy and true freedom only exist when we have freedom of choice.

Virginia Blend introducing the Local Government Article to the 1971-1972 Montana Constitutional Convention.¹

The Court indicated in this landmark self-governing power decision that they would not liberally construe self-government power in favor of cities as is provided in the state constitution. Consequently, cities will continue to be wards of the state.

Al Thelen, City Manager of Billings, Montana commenting on the Supreme Court's voiding of Billings' Hotel-Motel fee.²

STATEMENT OF THE PROBLEM

Much of the optimism that existed in the 1972 Montana Constitutional Convention has now dissipated into a sense of frustration on the part of many officials and observers of Montana's local governments. The optimism of the convention stemmed from the delegates' desire to give local governments more authority and autonomy by endorsing the concept of self-government powers. The existing frustration often focuses on the lack of discretionary revenue authority that self-government units enjoy. Have the optimistic goals been realized? Is the frustration justified? This paper attempts to answer these questions regarding revenue authority by documenting the constitutional

¹1971-1972 Montana Constitutional Convention, Verbatim Transcript of the Proceedings, Volume VII (Helena, Mt.: Montana Legislature, 1981), p. 2513.

²Interview with Mr. Al Thelen, City Manager of Billings, Montana. KPAX television, "MTN News at 5:30," 27 October 1983.

intent and determining the extent of realization of the intent by self-government units.

These questions of intent and realization will take on added meaning in 1985 when Montana citizens actively consider the issue of discretionary revenue authority. The revenue authority of local governments will be a primary concern of communities that undertake the local government review process.³ Also, issues like granting local governments a local option income tax will be debated during the 1985 state legislative session.

Although these debates are essential, there remains considerable misunderstanding among voters and government officials regarding local governments' revenue authority. Hopefully, by carefully documenting the constitutional intent and the degree of realization, the issue of self-government units' revenue authority will be clarified.

BACKGROUND INFORMATION

Before proceeding to discuss the historical background of the issue, several terms should be clarified. Discretionary authority can be defined as the ability of a local government to conduct its own affairs, namely the ability to determine its own organization, the functions it performs, its taxing and borrowing authority, and

³The local government review process is a formal procedure whereby residents of communities vote every ten years to determine if they want to elect a committee to study the existing form of government. The local government review election is mandated by the Montana Constitution. For more information see: James J. Lopach, "Local Government in Montana," in We The People of Montana, ed. James J. Lopach (Missoula, Montana: Mountain Press Publishing Co., 1983), p. 216.

the numbers and employment conditions of its personnel.⁴ Therefore, discretionary revenue authority is the local government's autonomy to determine its taxing and revenue structure. Hereafter, the term revenue authority is used as discretionary revenue authority.

The powers of a local government pertain to the authority that it enjoys and the legal source from which it derives its authority. Lacking recognition by the United States Constitution, local governments have derived their legal authority from state constitutions and state statutes. The Montana Constitution grants local governments the ability to adopt self-government powers through which they may exercise any power not prohibited by the constitution, statutory law, or a local charter.⁵ This type of constitutional legal authority is often called 'residual powers'.

Until the 1972 Constitution was ratified, Montana's local governments did not have the opportunity to adopt self-government powers and were constrained by the application of the longstanding "Dillon's Rule." Dillon's Rule, also referred to as the general powers approach, means that "state authorization must precede local ordinances that specify activities or regulations."⁶ The application of Dillon's Rule meant that local governments had no powers other than those delegated by the state.

⁴Advisory Commission on Intergovernmental Relations (ACIR), Measuring Local Discretionary Authority, Information Report No. M-131 (Washington, D.C.: ACIR, 1981), p.1.

⁵James J. Lopach, "Local Government in Montana," in We The People of Montana..., ed. James J. Lopach (Missoula, Montana: Mountain Press Publishing Co., 1983), p. 216.

⁶Ibid., p. 225.

The delegates to the Constitutional Convention, especially those delegates on the Local Government Committee, understood the debates about the two approaches to local government authority. The adoption of self-government powers by the delegates in Article XI was widely perceived as an attempt to give communities more autonomy. Yet, since constitutions are inherently vague, interpreters of constitutions and writers of legislation must rely on intent.⁷ The lack of a clearly documented intent regarding self-government units' revenue authority has led to disagreements among legislators, administrators, and citizens. Local officials routinely bemoan the lack of authority. Yet, the voters of Bozeman defeated a proposal to adopt self-government powers in 1983 because the city would have additional revenue authority. One re-elected City Commissioner noted, "Voters liked the administrative flexibility allowed by self-government, but didn't want the City Commission to have more authority to tax."⁸

The history of self-government powers indicates that revenue authority is a controversial issue. The existence of widespread disagreement concerning constitutional intent and the existing level of authority indicate the need for some clarification.

⁷Rhonda C. Thomas, "Recent Developments in Missouri: Local Government Taxation," UMKC Law Review 49 (Summer, 1981), p. 523.

⁸"Mistrust, fear of taxes kill self-government," Bozeman Daily Chronicle, 9 November 1983, p. 1.

REVIEW OF PREVIOUS STUDIES

Previous studies have not clarified the issue of self-government units' revenue authority. The ongoing disagreements concerning constitutional intent indicates the lack of any careful analysis of intent. Furthermore, the studies of Montana local governments' financial situation since 1972 have not focused on the difference between the situations of local governments with self-government powers as opposed to those with general powers.

The 1974 Legislature established a State Commission on Local Government to "make a detailed study of local government structure, powers, services, finance, and state-local relations and to prepare a revised set of local government statutes."⁹ The commission's staff undertook an unprecedented analysis of the financial condition, expenditures, and revenues of local governments in Montana. The staff also analyzed options for alternative revenue sources, state aid and revenue sharing, and state assumption of local functions. However, these reports made no distinction for self-government units because no local government had adopted self-government powers yet.

In 1981-1982, a task force of state and local officials was appointed by the governor to "examine the current and projected financial condition of Montana's cities, towns, and counties and the impacts

⁹State Commission on Local Government, "Preliminary Report on Economic Capacity, Fiscal Capacity, Tax Effort, Fiscal Needs, and Nominal and Actual Tax Rates of Cities, Towns, and Counties," Finance Study Report No. 4, Helena, 1975, p. ii.

of proposed changes in federal funding."¹⁰ This study by the Temporary Committee on Local Government Finance further documented the deteriorating financial condition of many cities. It classified local governments in various ways, except by type of legal authority. For this reason and since it only analyzed four year trends, this study fails to address the issue at question.

Another study that suffered from these same problems of applicability is the collection of five reports done by Western Analysis for the Montana Urban Coalition.¹¹ The Urban Coalition strove for increased state assumption of local programs to ease the urban financial dilemma.¹² The Western Analysis study analyzed cities based on four classifications: urban; medium population; small population; and energy areas. Again, legal authority as a factor of financial condition was not examined.

One paper that came the closest to analyzing local governments on the basis of legal authority was a 1982 unpublished monograph by Jean Bowman. She analyzed the legislative enactments since 1972 in order to determine the extent of implementation of the Constitution's local government article.¹³ She closely examined the significant

¹⁰Montana Department of Administration, Consulting Services Bureau, "Local Government Financial Condition 1981," submitted to the Temporary Committee on Local Government Finance (February, 1982), p. 1.

¹¹Western Analysis was a consulting firm in Helena and the Montana Urban Coalition is an organization of urban city and county officials in Montana.

¹²Western Analysis, "Local Government Fiscal Conditions and State/Local Fiscal Relationship," Report No. 1, submitted to Montana Urban Coalition (October 1982), p. 1.

¹³Jean Bowman, Unpublished paper on the legislative implementation of the Local Government Article of the Montana Constitution.

pieces of legislation affecting local government revenues, but her analysis did not compare the revenue authority of self-government units versus general power governments.

Although local governments' financial problems are well documented, the existing studies have not focused on self-government powers as a determinant of local revenue authority.

RESEARCH FINDINGS

As the issue of self-government units' revenue authority is controversial and has not been adequately researched, this paper will attempt to answer two important questions:

1. What did the framers of the Constitution intend regarding self-government units' revenue authority?
2. To what degree has this intent been realized?

The paper is divided into five chapters with the three major chapters examining the constitutional intent of self-government units' revenue authority, the legislative implementation and judicial review of the intent, and a comparative case study. The research methods used were examination of historical records and interviews. The paper's chapters are summarized below.

Constitutional Intent

Research of the 1972 Montana Constitutional Convention's documents and interviews with selected convention delegates and staff members were the methods used to examine the intent for self-government units' revenue authority. The major conclusion of the research was that,

if there was not a clear constitutional mandate for self-government units to have additional revenue authority, there was at least a hope that the Montana Legislature would allow additional revenue authority.

Legislative Implementation and Judicial Review

The twelve years since the 1972 convention have seen many attempts and successes at implementing the self-government provisions of the Constitution. This chapter reviews the work done by the 1974 State Commission on Local Government, the major pieces of legislation affecting self-government units' revenue authority, and three relevant Supreme Court cases. Evidence is provided that the only significant, additional revenue authority of self-government powers is freedom from mill levy limits and expanded licensing power.

Realization of Revenue Authority

Two case studies were conducted to test whether a self-government unit had used the additional revenue powers and to see if it had created any novel revenue sources. Two case studies were compared--Helena, which has self-government powers, and Bozeman, which has general powers. Research of each city's financial records and interviews with city officials were used to support the analysis in this chapter.

Before studying each city, an objective method of examining revenue authority was determined. Diversification of revenue among six revenue sources is widely used for determining the extent of a local government's revenue authority. The six revenue sources of a local government's general fund are taxes, intergovernmental revenues, licenses and permits, fines, fees (charges for services),

and miscellaneous revenue. Furthermore, revenue diversification is measured by calculating a local government's reliance on each revenue source. Revenue reliance is defined as the proportion of a local government's total general revenue that is derived from each revenue source.¹⁴ If the constitutional intent was to enable self-government units to have increased revenue authority, then the difference between the revenue reliance trends of Helena and Bozeman is an indication of the realization of that intent.

Helena and Bozeman were chosen because they compare well on various factors that affect revenue authority and revenue reliance trends. The factors are each city's property tax base trends, economic base components, socio-economic background of its residents, and form of organization. After controlling for these factors, the cities' different revenue reliance trends should be explained by differences in diversification efforts or legal powers. The most important factors affecting the cities' different revenue trends were found to be state legislative actions which transferred revenues from taxes to the categories of fees and intergovernmental revenues, Helena's more extensive use of revenue powers allowed for all local governments, and some extraordinary circumstances in Bozeman. The use of self-government powers was not found to be a very significant factor in Helena's efforts to diversify revenues.

Conclusions and Recommendations

The constitutional intent, legislative implementation, judicial

¹⁴Susan A. MacManus, Revenue Patterns in U.S. Cities and Suburbs (New York: Praeger Publishers, 1978), p. 71.

review, and realization of the intent are summarized in the final chapter. Conclusions and recommendations on the future prospects of attaining revenue authority are also discussed. All of these conclusions will be important in 1985 when communities undertake the local government review process and when the 1985 Legislature is in session. The primary recommendation is that the 1985 Legislature should consider restricting a local option income tax to self-government units. The constitutional intent and realization of self-government units' revenue authority are key issues that the review committees and the legislature will have to consider.

CHAPTER TWO

CONSTITUTIONAL INTENT

INTRODUCTION

The delegates of the 1972 Montana Constitutional Convention intended to ease state control of local government powers if the localities adopted self-government powers. Their overall intent was summarized as flexibility, accountability, and local control.¹⁵ Yet, what did the delegates intend regarding the more specific topic of self-government units' revenue authority? It is quite clear that, even though the delegates fully empowered the legislature to control local governments' revenue authority, they did intend that self-government units would have more revenue authority and a broader base of revenue than existed at the time. This perspective of their intent is supported both by an examination of the convention's documents and by interviews with former delegates.

DETERMINATION OF INTENT FROM WRITTEN DOCUMENTS

There are three sources of records from the convention that clarify the delegates' intent. These sources are the Montana Constitutional Convention Commission's study - Local Government, the minutes of the Local Government Committee meetings, and the transcripts of the floor debate on the local government article.

¹⁵Local Government Committee of the 1971-1972 Montana Constitutional Convention, Minutes of the Twenty-Second Meeting, 15 February 1972, 7:00 PM.

The Montana Constitutional Convention Commission's Study - Local Government

This study provided the research foundation for the delegates on the Local Government Committee. The study outlined the choices that the delegates had to make regarding local government powers. The spectrum of powers ran from having little local discretion to complete local control and home rule. Within this spectrum was the shared or residual powers approach whereby local governments would have any and all powers not denied by the constitution, legislature, or the local charter.

In relation to revenue authority, the study examined the experiences of other states. The failure of communities in other states to achieve true self-government is evident in the following quote:

... most American communities lack any instrumentality government with legal powers, geographical jurisdiction, and independent revenue sources necessary to conduct local self-government in any valid sense.¹⁶

The study made it clear that meaningful self-government powers implied a broad revenue base.

Minutes of the Local Government Committee Meetings

Although the delegates on the Local Government Committee desired flexibility, local control, and meaningful self-government, they also recognized the need for accountability. In addition, some measure of state control was necessary to ensure uniformity. At the same

¹⁶Committee for Economic Development, Research and Policy Committee, Modernizing Local Government to Secure a Balanced Federalism (New York: Committee for Economic Development, 1966), p. 14, quoted in Jerry Holloron, Local Government, Constitutional Convention Study Number 16 (Helena, Montana: Montana Constitutional Convention Commission, 1971), p. 318.

time, a primary concern of the delegates was to avoid detailed specificity in the constitution.

The delegates on the Local Government Committee felt that the residual powers approach could allow for the desired local authority and for uniform state control without constitutional specificity. None of the draft proposals went so far as fully empowering self-government units and excluding state legislative oversight. Even the most liberal proposal, a district plan advanced by delegates Franklin Arness and Katie Payne, would have allowed the state to restrict the self-government units "as necessary for reasonable uniformity."¹⁷

In order to avoid the kind of specificity that burdened the previous constitution, the delegates only made one part of the local government article self-executing; to allow a self-government unit to have a free choice of form if it adopted a charter. There was discussion of making some other powers self-executing, but revenue authority was not among them.

Throughout the minutes of the Local Government Committee's meetings, the discussion of self-government units' revenue authority focused on taxing authority. The committee delegates were firm in their belief that the legislature could and should control revenue authority. This point is clarified in the written comments on section six, "Self-Government Powers," of the final article proposal:

¹⁷Local Government Committee of the 1971-1972 Montana Constitutional Convention, "Minority Report," presented at the Twenty-Second Meeting, 15 February 1972, 7:00 PM.

For example, the legislature might prohibit any self-government unit to impose any tax other than property and license taxes and might limit property taxes to no more than 70 mills. The committee is not endorsing such restrictions; it simply wishes to point out that from a practical standpoint, both the Legislature and the local voters undoubtedly will impose taxation limitations on a self-government unit.¹⁸

The floor debate on this section further clarifies this intent.

Floor Debate

Discussion of revenue authority on the convention floor occurred within the debate on section six. The delegates' dilemma of not wanting to endorse legislative control, but still allow it was evident in this debate.

Delegate Lucile Speer's opening comments contained a reluctant acknowledgement of the Legislature's power:

... and it may be that the Legislature probably will set limits upon the taxing power of local governments...¹⁹

Her use of the words "may" and "probably" indicates the delegates' hesitancy to set specific mandates in this area.

After Ms. Speer's introduction, the ensuing debate focused on legislative control of self-government powers. Regarding revenue authority, one delegate proposed an hypothetical situation whereby a self-government unit could enact a local sales tax. The response was that the self-government unit could enact a sales tax only if

¹⁸Local Government Committee of the 1971-1972 Montana Constitutional Convention, "Local Government Committee Proposal No. XI," p. 28.

¹⁹Montana Constitutional Convention 1971-1972, Verbatim Transcripts (Helena, Montana: Montana Legislature, 1981), p. 2529.

the local charter and the Legislature had not expressly prevented this power.²⁰ The sales tax issue was controversial because a state sales tax referendum had been defeated in the same election that selected the convention's delegates.

The Legislature's control was also reinforced in the debate when the delegates revealed their intent regarding the Legislature's ability to preempt a locally enacted self-government power on an "ex post facto" basis. After substantial discussion, delegate Arness said, "There's nothing in this charter that would prevent the Legislature from restricting a charter once it had been enacted."²¹ Thus, the Legislature was given the powers of prior and subsequent preemption of self-government powers.

The written records indicate the delegates dilemma regarding flexibility, local control, and accountability. Although some delegates were hesitant, the final analysis shows that the Legislature could control self-government powers. Yet, the delegates' hesitancy and their desire to emancipate self-government units at least implies a hope that self-government units would have more revenue authority. Determining if this hope did exist was the purpose behind interviewing many of the delegates twelve years later.

DETERMINATION OF INTENT FROM INTERVIEWING DELEGATES

Selected convention participants were interviewed in April,

²⁰Ibid., p. 2530.

²¹Ibid., p. 2532.

1984. The purpose of these interviews was to clarify the delegates' hopes and intentions regarding self-government units' revenue authority. The people interviewed included all of the delegates on the Local Government Committee that could be contacted and were willing to be interviewed, the five executive officers of the convention, the research analyst for the Local Government Committee, and the executive director of the convention staff.²² The people interviewed, their position titles, and the questions asked are included in Appendix A.

The most important finding of the interviews was the confirmation of the hope that self-government units would have significantly stronger revenue powers. Of the thirteen people interviewed, twelve answered either yes or a qualified yes to the question of whether the delegates intended to increase self-government units' revenue authority. The lone dissenter, delegate Speer, said no because of the convention delegates' desire to leave statutory issues out of the constitution; therefore revenue authority was left to the legislature.²³ The remaining people interviewed affirmed that there was at least a hope that self-government powers would allow for increased revenue authority.

Most of the responses can be described as being a qualified

²²Two members of the Local Government Committee were deceased and two other members could not be reached. One committee member was unwilling to be interviewed on the subject. It is assumed that the responses accurately reflect the tenor of the convention debate, however, intervening events may introduce some degree of bias.

²³Personal interview with Lucile Speer, former delegate of the 1971-1972 Montana Constitutional Convention, 10 April 1984.

yes, i.e., that there was this intent even though it was not specified. Leo Graybill, chairman of the convention, replied that although the power was expressly given to the Legislature, the delegates were definitely encouraging legislators to liberalize self-government units' revenue powers.²⁴ Thomas Ask said that the delegates hoped to give self-government units broad authority and let the local citizens decide what revenue powers fit the local area.²⁵ Dale Harris, the staff executive director, responded in a way that reflects the inherent conflict that the delegates faced. He said that the Local Government Committee members understood quite well that any change would require legislative action, but that the mood of the delegates was that self-government units had to be empowered with more revenue authority.²⁶ All of the other delegates who responded yes to the question indicated that self-government powers carried an implication of significantly more revenue authority.

The substance of the interviews varied more when the question of specific means of increasing revenue authority was discussed. Regarding specific means, the delegates unanimously acknowledged the Legislature's ability to preempt certain sources. Many delegates said the tenor of the times required only incremental change. The delegates were wary of a local sales tax because of the previous election's referendum.

²⁴Telephone interview with Leo Graybill, Jr., former chairman of the 1971-1972 Montana Constitutional Convention, 10 April 1984.

²⁵Telephone interview with Thomas M. Ask, former delegate of the 1971-1972 Montana Constitutional Convention, 23 April 1984.

²⁶Telephone interview with Dale Harris, former executive director of the 1971-1972 Montana Constitutional Convention, 11 April 1984.

Several delegates mentioned the topic of revenue sharing. The convention's delegates had already eliminated the barrier to state revenue sharing that existed in Article XII, Section 4 of the previous constitution. The Local Government Committee, however, felt that an affirmative constitutional grant allowing state revenue sharing should be included. This affirmation was included in the committee's proposal as Section 8, but this section was deleted when a floor fight threatened the support of the entire article.

Even though the delegates gave no support for a sales tax and intended for revenue sharing to be possible for all local governments, they still felt that additional specific revenue powers should be available to self-government units. Oscar Anderson, chairman of the Local Government Committee, said that by not denying any revenue powers, the delegates opened up all possibilities.²⁷ Lynn Keeley said that one incentive for a new form of government was that the self-government unit could bring in new revenues, tailored to local conditions, to meet local needs. She continued that several areas of the Constitution required legislative support, and revenue authority was one of these areas.²⁸ Jerry Holloron, the committee's research analyst, said that the delegates realized that self-government powers are meaningless without revenue flexibility, but that they were vague in the constitutional language for four reasons:

²⁷Telephone interview with Oscar L. Anderson, former chairman of the Local Government Committee, 1971-1972 Montana Constitutional Convention, 18 April 1984.

²⁸Telephone interview with M. Lynn Keeley, former delegate of the 1971-1972 Montana Constitutional Convention, 25 April 1984.

1. to ensure the flexibility and enduring nature of the Constitution;
2. to enhance the chances of ratifying the Constitution;
3. specific revenue powers are rightfully a legislative prerogative;
4. revenue powers beyond taxes were hardly considered.²⁹

Despite the vagueness of the Constitution, the delegates did seem to indicate that self-government powers would allow local governments to diversify their revenue sources. Most delegates' discussions indicated that diversification of revenues was implied by self-government powers. When asked if self-government powers implied an ability to diversify revenue sources, only one delegate, Lucile Speer, said no because diversification was not specifically discussed.³⁰

Overall, the interviews indicated that, even if specific means were not discussed, the delegates intended that self-government units would have increased revenue authority. Additional revenue sources were seen as a part of self-government authority, so there was a hope that self-government units could diversify their revenue sources.

CONCLUSIONS

It does not appear that there is any inconsistency between the interviews and the written records. Rather, the delegates specifically intended to allow the Legislature to limit self-government powers, but did so with the hope and implied intent that self-government units required and deserved increased revenue authority. Jerry Holloron

²⁹Personal interview with Jerry Holloron, former research analyst for the Local Government Committee, 1971-1972 Montana Constitutional Convention, 11 April 1984.

³⁰Speer, interview.

mentioned four reasons why the delegates could not specify their hopes any more than they did. Another reason that the delegates could not reconcile the constitutional language with hope is because of the inherent conflict of their overall intent of local control, flexibility, and accountability. Accountability is usually associated with state legislative control of local revenues and the delegates endorsed this connection. However, the delegates also acknowledged that citizens required accountability. The delegates felt that self-government powers would ultimately increase local control, flexibility, and local accountability. As delegate and vice-chairman John H. Toole said, "Self-government powers was meant to be a whole new ballgame."³¹ How much of a new ballgame self-government powers has become will be explored in the following chapters.

³¹personal interview with John H. Toole, former delegate and vice-chairman of the 1971-1972 Montana Constitutional Convention, 27 April 1984.

CHAPTER THREE

LEGISLATIVE IMPLEMENTATION AND JUDICIAL REVIEW

INTRODUCTION

After the Montana voters ratified the new Constitution, the Legislature was left with the task of implementing the intent of the Local Government Article. The Montana Legislature began the task in 1974 and has worked since then to implement the Article. The judicial system, most notably the Montana Supreme Court, also helped shape the implementation of the Article's self-government provisions through adjudication of four Supreme Court cases.³² This chapter reviews the major legislation concerning the revenue authority of self-government units and the three Supreme Court cases that affected their revenue authority. This chapter is only intended to be a brief review of relevant legislation and court cases; a more detailed legislative and judicial history is beyond the scope of this paper.

LEGISLATIVE IMPLEMENTATION

The Montana Legislature began implementing the Local Government Article in 1974 when it created the State Commission on Local Government.

³² The cases are:
State of Montana ex. rel., Swart v. Molitor 38 St. Rep. 71 (1981)
Tipco Corp., Inc. v. City of Billings 39 St. Rep. 600 (1982)
Harlen, Thompson, and Parish v. City of Helena 41 St. Rep. 162 (1984)
Montana Innkeepers Association v. City of Billings 40 St. Rep. 1753 (1983)

The most important legislation affecting self-government units was enacted in 1975 with the creation of what is currently Title 7, Chapter 1, Part 1 - Nature of Self-Government Local Governments. In 1977, the Legislature debated House Bill (H.B.) 122, which was the culmination of the State Commission on Local Government's research. The effects of these legislative efforts are described below.

As mentioned in the introductory chapter, the State Commission on Local Government's purpose was to "make a detailed study of local government structure, powers, services, finance, and state-local relations and to prepare a revised set of local government statutes."³³ The Commission's reports did not regard the different forms of local governments' legal authority as requiring different levels of revenue authority. The Commission recommended the availability of several new revenue sources for all local governments. These new revenue sources included a state revenue sharing plan and local option taxes such as a piggyback income tax, a tax on utility consumption, a hotel room tax, a motor vehicle license tax, and a fuels tax.³⁴ The Commission recommended, however, that all local governments, not just self-government units, be granted these new sources. Indeed, a Commission staff report said, "Local Option Taxes should be considered an integral part of the self-government powers, **the proposed granted powers**, and consistent with the philosophy of increased local responsibility,

³³State Commission on Local Government, "Summary of Revenue Sources," Finance Study Report No. 8, Helena, 1975, p. i.

³⁴State Commission on Local Government, "Alternative Revenue Sources For Montana Local Governments," Finance Study No. 9, Helena, 1975, pp. 2-3.

flexibility, and autonomy (emphasis added).³⁵

While the Commission was continuing its research and compiling its recommendations, the Legislature acted in 1975 on some of the Commission's recommendations by enacting the self-government statute. The important provisions affecting the revenue authority of self-government units are set out below:

- MCA 7-1-113 - This provision requires that self-government powers must be consistent with Montana state law or administrative regulation if the power affects a function that is essentially controlled by the State. Therefore, the State's authority is pre-eminent whenever it regulates a function.
- MCA 7-1-111(5) - Consistent with the above law, this provision dictates that if a state agency sets a rate or price in any area, the self-government unit is prohibited from diverging from this rate.
- MCA 7-1-112(1) - The power to tax income or the sale of goods or services cannot be exercised without specific authorization by the Legislature. This provision does not limit the adoption of any other tax.
- MCA 7-1-114(1)(g) - Self-government units are required to follow all laws and regulation governing general power local governments in the areas of budget, finance, and borrowing procedures. The mill levy limits, as set in the statutes, do not apply to self-government units, however.
- MCA 7-1-103 - Subject to the above laws and the Constitution, a self-government unit is not limited by laws or regulations that limit general power governments in the provision of services or performance of functions. For a self-government unit to be limited, the law or regulation must specifically include self-government units. Although this law does not seem financially related, its existence becomes very important in court cases that will be discussed later.

These laws set the limits for self-government units' revenue

³⁵Ibid. p. 2.

authority. The Legislature did use its constitutional ability to control revenue authority by denying local income and sales taxes. Although the Legislature allowed self-government units expanded revenue authority by not applying mill levy limits, this authority encourages more reliance on property taxes and discourages revenue diversification.

Two years later, in considering House Bill (H.B.) 122, the Legislature debated the recommendations of the State Commission on Local Government. The bill was a massive document (2,400 pages in five volumes) which was a complete recodification of local government law. The size and complexity of this bill helped assure its defeat. It included only four of the local option taxes recommended by the Commission's staff. These taxes were on income, hotel-motel facilities, fuels, and motor vehicle licenses. As proposed, the taxes would have been available to all local governments. Therefore, H.B. 122 did nothing to differentiate between self-government powers and general powers in terms of revenue authority.

Similarly, legislative bills since 1977 have not significantly differentiated between general power governments and self-government units nor allowed new revenue authority for self-governments.³⁶ In fact, there has been at least one instance where a city used self-government powers to create a new revenue source and authority for this revenue source was subsequently granted to all local governments. This situation occurred when Helena, a self-government unit, adopted a five percent charge on Special Improvement District (SID) projects

³⁶Jean Bowman, Unpublished paper on the legislative implementation of the Local Government Article of the Montana Constitution, pp. 5-8.

in order to support the SID revolving fund.³⁷ The revolving fund is established to maintain debt service payments on bonds if SID assessment payments are delinquent. Previously, a permissive property tax levy had supported this fund. The legislature granted this diversified method of funding to all local governments in 1981.³⁸

The legislation regarding self-government units' revenue authority is not clear except for the elimination of mill levy limits and the denial of the right to tax income or sales. Thus, administrators of self-government units have had to become creative in their efforts to increase the revenue authority. Although this creativity may have been intended by the Constitutional Convention delegates and by legislators, it has meant that significant efforts to expand the revenue authority have been and will be decided in the courtroom.

JUDICIAL REVIEW

Most self-government units' attempts to expand and diversify their revenue authority have been challenged in court. Three cases related to the revenue authority of self-government units have been argued before the Montana Supreme Court. The circumstances and outcomes of the three cases are briefly described below.

³⁷Comments by Al Thelen, City Manager of Billings, Montana, at 1982 Citizens Forum, page 23 of transcripts.

³⁸Senate Bill 96, Montana Legislature (1981)

State ex. rel., Swart v. Molitor³⁹

This case concerned whether Madison County could charge a separate and additional fee for examination of a certificate of survey. The appellant, a registered land surveyor, protested the fee saying that self-government units were bound to all laws regulating planning or zoning.⁴⁰ The surveyor held that if the statutes were silent regarding a fee for examination by the County Surveyor, then a self-government unit had no authority to charge a fee. In denying this appeal and affirming the County's authority for this fee, the Supreme Court relied upon the provision of MCA 7-1-103. This law says that a self-government unit is not controlled by general power limitations regarding provision of services unless the unit's charter limits it or the state laws specifically pertain to self-government units.

The significance of this case lies not in the extent of the revenue authority granted, but with the efforts pursued by opponents to strike down minimal, additional revenue authority. The fee was only twenty dollars per certificate of survey and thus would not be very significant in terms of tax relief. Yet, the appellant pursued the case to the Supreme Court.

This case seemingly allows self-government units to establish additional fees for various services without having specific state enabling legislation. This freedom to establish fees, however, has

³⁹THE STATE OF MONTANA EX. REL., CHARLES R. SWART, PETITIONER AND APPELLANT, v. LORRAINE P. MOLITOR, CLERK AND RECORDER, MADISON COUNTY, DAVID BOWMAN, EXAMINING LAND SURVEYOR, MADISON COUNTY, RESPONDANTS. No. 80-200, Supreme Court of Montana. 621 P2d 1100 (1980).

⁴⁰MCA 7-1-114(1)(e)

been interpreted to exist for all local governments. The Legislature enacted Senate Bill number 503 in 1979 and part of this bill allows all local governments to charge a fee for any legally authorized service which it provides. Indeed, many local governments with general and self-governments powers have used this authorization to establish new fees, for example, a fee for processing Industrial Development Revenue Bond applications.⁴¹

Harlen et. al. v. City of Helena⁴²

This case involved the power of a self-government city, Helena, to license certain professions even though laws in Title 37 preclude municipalities from licensing these occupations.⁴³ The City of Helena had passed a general license ordinance that extended the regulations and fees of licensing to occupations that had previously been exempted by the statutes. The City had received an Attorney General's Opinion essentially saying that MCA 7-1-103, which exempts self-government units from the general power statutes that limit services, pertained also to licensing restrictions. The opinion did not say that the ordinance was valid in the sense of MCA 7-1-113, which requires consistency with State regulation, but only that statutes specifically would have to mention self-government units in order to restrict

⁴¹Interview with Mae Nan Ellingson, Attorney, 5 November 1984. See MCA 7-1-4123 (7).

⁴²ADA J. HARLEN, SHAUN R. THOMPSON, AND RICHARD L. PARISH, D/B/A HARLEN, THOMPSON, AND PARISH, A PARTNERSHIP, PLAINTIFFS AND APPELLANTS v. CITY OF HELENA, A POLITICAL SUBDIVISION OF THE STATE OF MONTANA, No. 83-169, Supreme Court of Montana, 41 St. Rep. 162 (1984).

⁴³Examples of these occupations are accountants, insurance agents, realtors, and other professions.

them.⁴⁴

The law firm of Harlen, Thompson, and Parish protested this ordinance to the Supreme Court, saying that lawyers were exempt from licensing because lawyers are regulated solely by the Supreme Court according to MCA 37-61-101 to 37-61-103 and MCA 7-1-113 thus prevents regulation by other political agencies. The Supreme Court upheld this contention, so only lawyers were excluded from the ordinance. Since the decision, legislation was passed that also explicitly excluded dentists and dental assistants.⁴⁵

As in the previous case, the significance of this case pertains mainly to the interpretation of 7-1-103, which provides self-government units some freedom from the general power laws. Again, the amount of revenue was not tremendous as it meant approximately \$12,000 out of general fund revenues of \$4,659,934 for Helena in Fiscal Year 1984.⁴⁶

Montana Innkeepers Association v. City of Billings⁴⁷

This case was the most complex of the self-government power cases and its outcome was controversial. The self-government units of both West Yellowstone and Billings had passed referendums enacting fees on users of hotel-motel rooms. Although West Yellowstone was the defendant in the initial case, the City of Billings later became

⁴⁴39 Attorney General Opinion 60, 24 May 1982

⁴⁵MCA 37-4-307(7)

⁴⁶Telephone interview with Bill Verwolf, Finance Director - City of Helena, 12 October 1984.

⁴⁷MONTANA INNKEEPERS ASSOCIATION, Plaintiff and Appellant v. CITY OF BILLINGS, Defendant and Respondent, No. 83-250 Supreme Court of Montana, 40 St. Rep. 1753 (1983).

the primary defendant.

The issues in the case centered on whether the fee was actually a tax and, if so, was it a sales tax? The district court judge, Honorable Charles Luedke, ruled that although it was a tax, it was a tax on a person and not on a sales transaction.⁴⁸

The appellants argued that the fee was a sales tax because of its nature. They argued that taxes, especially sales taxes, vary greatly in their construction and administration. Specifically, sales taxes can be selective, such as excise taxes, or they can be general in nature and apply to all sales transactions. Furthermore, the nature of determining the cost of the fee or tax, a flat charge or an ad valorem charge, does not distinguish a tax from a fee since there are many "specific" taxes where the cost is a constant rate per volume of units sold. Other arguments presented included:

- 1) that any doubt should be resolved in favor of the taxpayer;
- 2) that the Commission on Local Government had recognized that self-government units lacked authority for a hotel-motel tax in its recommendations;
- 3) that many sales taxes are described as being levied on the consumer and the vendor is only a collection agent; e.g. the state cigarette tax.⁴⁹

The City of Billings countered that the Constitution requires that all power derives from the people and to decide against the vote of the Billings residents would be an abrogation of the popular

⁴⁸MONTANA INNKEEPERS ASSOCIATION, Plaintiff, v. CITY OF BILLINGS, Defendant Montana District Court, Honorable Charles Luedke, Judge, Cause No. DV-82-1784.

⁴⁹MONTANA INNKEEPERS ASSOCIATION, Plaintiff and Appellant, v. CITY OF BILLINGS, Defendant and Respondant, Appellant's Brief, pp. 3-13.

sovereignty doctrine. Furthermore, the City raised the issues of liberal construction of self-government powers as required by the Constitution, of the fee being independent of any transfer of property or renting of the room, and of the question of the fee's incidence. Although both the Supreme Court and District Court had recognized the Innkeepers' legal standing, the Billings brief seemed to question whether they had legal standing since they were just collection agents and the incidence of the fee was on the "transient occupants."⁵⁰

The Supreme Court ruled that the occupancy of the hotel-motel room cannot be separated from being a sales transaction and, therefore, the transient occupancy fee was actually a sales tax. This decision is seen by many local government observers as a major setback to the use of self-government powers for diversifying revenue sources.

CONCLUSIONS

In practice, the legislative implementation and judicial review of self-government powers has rendered these powers as not being significantly different from general powers as far as revenue authority is concerned. The only differences that have been proven to exist are:

- 1) the freedom from mill levy limits unless the self-government unit includes limits if it adopts a charter;
- 2) somewhat expanded licensing authority for municipalities or consolidated units;

⁵⁰ MONTANA INNKEEPERS ASSOCIATION, Plaintiff and Appellant, v. CITY OF BILLINGS, Defendant and Respondent, City of Billings Brief, pp. 3-18.

Whether these proven powers are significant will be examined in the following chapter which is a case study of a self-government unit and a general powers government.

CHAPTER FOUR

REALIZATION OF REVENUE AUTHORITY

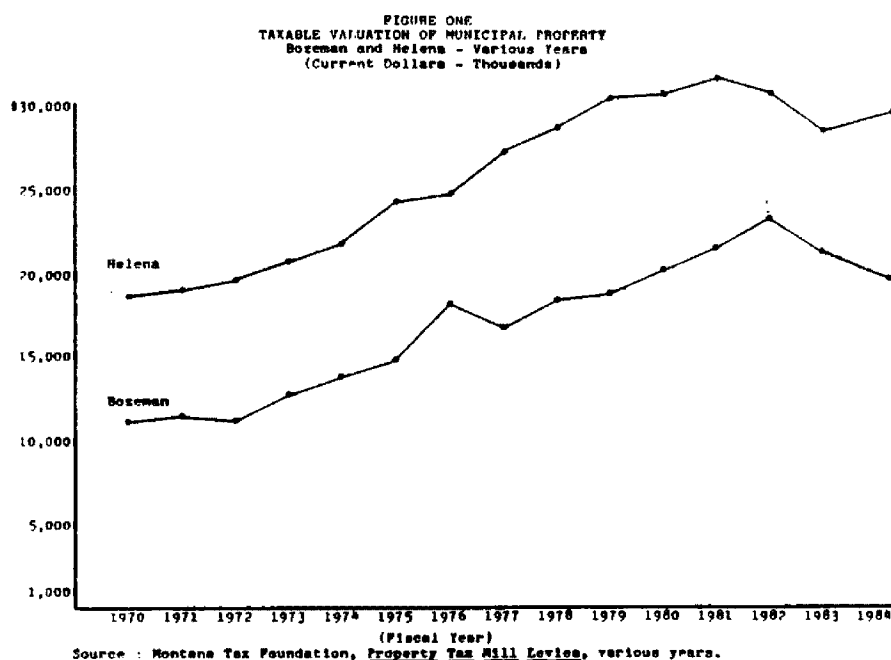
INTRODUCTION

Case studies are a means to test whether existing differences in the revenue authority of self-government units and general power governments are significant. If a self-government unit has significantly different revenue patterns as compared to a general power government and if this difference can be attributed to their different legal authorities, then one can imply that the Constitutional Convention delegates' intent has been largely satisfied. Conversely, if little difference exists after controlling for other factors which affect revenue patterns, then one can surmise that self-government powers have a negligible effect on revenue authority. The case studies began with the choice of a self-government unit, Helena, and a general power government, Bozeman. In order to link the cities' revenue patterns to the governments' legal authority, the other factors of the governments' property tax base trends, economic base trends, socio-economic background of the residents, form of organization, and efforts at diversification have to match up well. The comparison of these factors is discussed below.

Property Tax Base Trends

Certainly the most important factor to examine is a city's taxable valuation history. If one city was booming while the other was declining, then any comparison would be questionable. Figure one reveals that, although different in magnitude, the taxable valuation

trends of Helena and Bozeman are very comparable. Except for the divergence in fiscal year 1984, both cities show the same trend of increasing tax bases followed by the overall decreases that were caused by legislative adjustments to the tax base.⁵¹ The difference in the relative size of the tax bases is caused by differences in area, population, and income per capita (see Table One on page thirty-four).



Economic Base Trends

It is difficult to find jurisdictions that have comparable economic bases in a sparsely populated state as Montana. However, Bozeman and Helena match up very well because the state government

⁵¹In 1981, the Montana Legislature exempted business inventories and light motor vehicles from property taxation. These changes affected all local governments. See Montana State Legislature, Revenue Oversight Committee, "Draft Report Background Report on HJR 31 — Property Tax Classification," 31 October 1983, pp. 54-55.

is the largest component of both cities' economic bases. The existence of large state government expenditures in both areas lends stability to the areas and increases their comparability. Bozeman's other major component, agriculture, has been unstable in recent years and is largely responsible for the differences that exist in income data.

Selected Socio-Economic Characteristics

Table One lists seven socio-economic factors that can affect a local government's revenue patterns. The differences between the population, income, and area of Bozeman and Helena contribute to the different sizes of their tax bases. Although there is some disparity in the comparison of these socio-economic data, especially regarding income, the two cities match up as well as can be expected.

TABLE 1
SELECTED DEMOGRAPHIC CHARACTERISTICS
Bozeman and Helena

	1970	1980	Percent Change 70-80
<u>Population</u>			
Bozeman.....	18,670	21,645	15.9
Helena.....	22,730	23,938	5.3
<u>Income Per Capita*</u>			
Bozeman.....	2,736	5,998	118.9
Helena.....	3,363	7,755	130.6
<u>Median Household Income*</u>			
Bozeman.....	NA	15,957	
Helena.....	NA	19,299	
<u>Percentage of Persons Below The Poverty Level**</u>			
Bozeman.....	12.2	19.3	58.2
Helena.....	8.5	10.4	22.4
<u>Median Years of School Completed Persons Under 25</u>			
Bozeman.....	13.2	14.8	12.1
Helena.....	12.6	13.2	4.8
<u>Median Age</u>			
Bozeman.....	21.9	23.3	0.06
Helena.....	27.6	29.5	0.07
<u>Area - Square Miles</u>			
Bozeman.....	7.55	6.94	-0.08
Helena.....	9.00	9.00	0.00

Notes: * Income figures based upon previous year's income
** Excludes inmates of institutions, members of the Armed Forces in barracks, college students in dorms, and unrelated individuals under 14 years of age.

Sources: U.S. Department of Commerce, Bureau of the Census, 1970 Census of Population, Part 28; 1980 Census of Population, General Population Characteristics - MT; and 1980 General Social and Economic Characteristics - MT (Washington, D.C.: U.S. Government Printing Office). 1970 and 1980 Helena City Directories, 1970 and 1980 Bozeman City Directories (Kansas City: R.L. Polk & Co. 1971 and 1981).

Government's Form of Organization

Both Helena and Bozeman have adopted the Commission-Manager form of organization. Both cities have five elected commissioners, one of whom is Mayor. These City Commissioners then appoint a person with professional level training and experience to the position of City Manager. The validity of comparing these two cities is increased by their use of the same form of government.

Given that these two cities are as well matched as two cities could be, it is probable that any differences that exist in their revenue patterns are attributable either to different efforts to diversify revenues or to the different legal powers. The efforts of each city to diversify its general fund revenues are discussed in detail in each city's case study.⁵²

HELENA CASE STUDY

As will be shown in specific examples presented below, Helena's two City Managers of the past decade made revenue diversification a top priority. Al Thelen served as City Manager from 1974 to 1979 and was responsible for initiating many new fees. The present City Manager, Robert A. Erickson, has focused his efforts since 1980 on adopting a general business license ordinance, assuring that special and enterprise operations, such as utilities, reimburse the general

⁵²Although cities have many different funds, the general fund is the major fund for day to day governmental operations. The case study analysis is limited to each city's general fund with some minor adaptations. These adaptations are described below and in Appendix B.

fund for general fund costs which they create, and increasing the applicable costs of the street maintenance district.⁵³

Helena adopted self-government powers on 2 May 1977.⁵⁴ The commitment to diversifying revenues was so strong at the time that the charter drafters negated the self-government revenue power of unlimited mill levy limits and included a 64 mill limit on the general fund all-purpose levy. Over the past five years, the City of Helena has accelerated its aggressive campaign to diversify its revenues away from property taxes. On 20 November 1978, the City Commission appointed an Alternate Revenue Committee to do a thorough study of the legality and feasibility of different revenue sources.⁵⁵

The Alternate Revenue Committee examined the legality, impact, incidence, monetary significance, and additional administrative costs of numerous revenue alternatives. The committee identified five potential revenue sources as being legal and significant: gasoline tax, fire department fees, hotel-motel fees, expanded business licenses, and subordinate service districts.⁵⁶ The City Commission has moved to adopt two of these measures, expanded business licenses and subordinate service districts, within the past five years. These measures, along with other efforts, will be discussed below.

Table Two presents Helena's revenue patterns among the six primary categories for the past ten years. Before discussing each

⁵³Letter from Bill Verwolf, Helena Finance Director, 23 November 1984.

⁵⁴City of Helena, City Charter, 2 May 1977.

⁵⁵City of Helena, Alternate Revenue Committee, "Final Committee Report" 1 October 1979, p. 1.

⁵⁶Ibid., p. 14

TABLE 1

HELLENA'S REVENUE HISTORY
Fiscal Years 1974 to 1984
(Dollars)

	FY 74	1	FY 75	1	FY 76	1	FY 77	1	FY 78	1	FY 79	1
TOTAL TAXES	1,345,312	64	1,397,025	56	1,438,217	51	1,595,530	50	1,666,237	49	1,822,586	50
TOTAL LICENSES & PERMITS	80,941	4	102,773	4	173,101	6	224,219	7	230,453	7	263,511	7
TOTAL FEES	57,361	3	270,699	12	350,543	12	671,999	15	741,029	22	680,110	19
TOTAL FINES	115,757	5	96,199	4	612,738	4	112,110	3	136,333	4	159,250	4
TOTAL INTERGOVERNMENTAL	421,280	20	453,584	18	573,154	20	654,782	20	498,234	15	538,244	15
TOTAL MISCELLANEOUS	91,720	4	156,321	6	679,766	6	150,291	5	151,240	4	180,760	5
TOTAL REVENUES	2,112,379	100	2,498,811	100	2,827,519	100	3,208,999	100	3,424,526	100	3,644,571	100
	FY 80	1	FY 81	1	FY 82	1	FY 83	1	FY 84	1		
TOTAL TAXES	1,513,109	42	1,716,762	44	1,958,457	45	2,069,522	42	1,698,927	36		
TOTAL LICENSES & PERMITS	241,386	7	238,837	4	312,749	7	630,404	13	528,653	10		
TOTAL FEES	889,819	25	840,923	21	741,071	17	595,173	12	726,367	14		
TOTAL FINES	145,179	4	156,107	4	165,659	3	245,369	5	266,098	5		
TOTAL INTERGOVERNMENTAL	571,080	16	714,879	18	843,461	20	877,483	18	1,025,796	20		
TOTAL MISCELLANEOUS	219,832	4	248,289	7	308,659	7	541,954	11	765,269	15		
TOTAL REVENUES	3,560,465	100	3,937,817	100	4,310,676	100	4,978,935	100	5,231,112	100		

SOURCE: CITY of Helena, Budget Document, various years; Our Calculations.

*Percentages may not add to 100 because of rounding methods.

Figures shown are adjusted figures - see appendix B.

category and the trends, an important caveat must be understood. In order for the accounting methods to be consistent over the period and comparable between cities, adjustments had to be made in each city's classification of revenues. Tables showing the breakdown of each revenue category's components and annotations of the adjustments made are detailed in Appendix B. The annotations and breakdown of components should be referred to for clarification when reading each case study. These types of changes had to be made to equalize the cities' accounting methods over time and to improve the study's validity.

The Tax History of Helena

Table Two is a ten year compilation of Helena's revenue reliance patterns among the six major revenue categories. As shown in Table Two, Helena's taxes have declined from sixty-four percent of total revenues in FY 74 to thirty-six percent in FY 84. The primary causes of the decrease result from legislative actions at the state level.

The Montana Legislature, instead of increasing the statutory limit of the general all-purpose levy, has allowed all local governments to adopt special purpose levies. The Legislature also replaced the property tax on light vehicles with license fees and a reimbursement from state funds. Business inventories were excluded from property taxation beginning in FY 84 and were replaced by a block grant from the state. Finally, the revaluation and equalization of property appraisals to 1976 values left Helena with a smaller tax base than if the properties had not been revalued.⁵⁷ So, although diversification

⁵⁷City of Helena, Budget Document FY 78-79, p. IV.

of revenues away from taxes has occurred, much of it has been caused by legislation applicable to all governments.

The License and Permit Revenue History of Helena

Helena's revenues from licenses and permits had been fairly stable until FY 82 when Helena adopted a comprehensive business license ordinance. Bill Verwolf, Helena's Finance Director, did a report in 1979 showing that Helena received much less in business license revenue than other Montana cities. In 1981, the Commissioners not only adopted Helena's first comprehensive business licensing ordinance, but also applied its provisions to lawyers, accountants, real estate agents, dentists, and other professions that had been statutorily exempted from licensing by general power governments.⁵⁸ This application led to the Montana Supreme Court case described in chapter three. The effect of this ordinance was so significant that business license revenues went from \$2,780 in FY 81, to \$61,647 in FY 82, and to \$88,887 in FY 83 (See Appendix B - Table 7).

The other major increase in Licenses and Permits occurred in FY 83 when Building Permits increased from \$66,788 to \$247,011. Although there was a fee increase, much of the increase was an aberration caused by an unusual amount of building activity related to the severe hailstorm in 1982.⁵⁹

The Fee (Charges For Services) Revenue History of Helena

Despite MCA 7-1-4123 (7) and the ruling of State ex. rel. Swart

⁵⁸Interview with Bill Verwolf, Helena Finance Director, 6 July 1984.

⁵⁹City of Helena, Budget Document FY 83-84, p. II.

v. Molitor⁶⁰, Helena has not greatly expanded the scope of its various fees. Some of the fluctuation of the dollars received for this category is caused by accounting methods that changed. For example, parking meter collections, golf course fees, and a transit fee were excluded in later years by segregating these functions into separate funds (See Appendix B-Table 8).⁶¹ However, Helena has made many progressive efforts over the past ten years to diversify revenues by increasing charges.

The most important measures were to adopt and later increase charges for the administration of Special Improvement Districts (SID's), other Special Districts, and the utility enterprise funds. SID's are areas where the owners of land have made public works improvements, such as street paving, water lines, and sewer lines, that are financed by tax-exempt bonds issued by the City. Enterprise funds are separate funds established for governmental operations, usually utilities, where the operations and accounting methods are to remain segregated from other funds and arranged like their private enterprise counterparts. Beginning in fiscal year 1975, these charges were adopted to offset the costs of creating and administering SID's and the various utilities. These costs include the various in-kind services performed by the legal, financial, and engineering departments of the city. The SID charges have fluctuated because SID's are generally only created

⁶⁰621 P2d 1100 (1980).

⁶¹The retention of these fees for the years that they were in the general fund does not skew the result because, as the revenues were excluded, so were the expenditures and any general fund taxes levied for these programs. The analysis of the cases would have been skewed if these fees had been excluded from the data.

when housing and development are growing; interest rates and general economic conditions greatly affect SID fee revenues. Both of these administration fees have been increased over the years to reflect rising costs. The fact that both of these administration charges made up seventy-nine percent of all fees in FY 84 reflects their importance.

Other efforts by Helena include raising fees for providing special events fire protection and adopting charges for the use of parks and the Civic Center. However, all of these fees are available for all local governments, not just self-governments. According to Bill Verwolf, Helena has not used the authority granted by MCA 7-1-4123 (7) and State ex. rel. Swart v. Molitor to create additional fees because most fees that yield significant revenue and can be efficiently administered are already expressly granted by the legislature.⁶² To adopt new fees would usually require extensive collection mechanisms that offset much of the revenues.⁶³

The Fine Revenue History of Helena

Helena's primary effort regarding revenues from fines was a reorganization of the Municipal Court during 1982. This reorganization, unrelated to self-government powers, allowed for greatly increased fines to be collected by following up on warrants more carefully.⁶⁴ These changes allowed fines to increase by \$ 100,000 in FY 83.

⁶²State ex. rel. Swart v. Molitor, 621 P2d 1100 (1980).

⁶³Interview with Bill Verwolf, Helena Finance Director, 25 October 1984.

⁶⁴City of Helena, Budget Document FY 83-84, p. II.

The Intergovernmental Revenue History of Helena

The largest components of intergovernmental revenues are the state gas tax and the federal general revenue sharing programs. Although both cities use special funds for these revenues, the entire amounts of these funds are included in the general fund figures in order to represent more fairly the revenue situation (See Appendix B annotations). Most of the significant changes in intergovernmental revenues as a percentage of all revenues occurred because of changes in Revenue Sharing or Gas Tax allocations. These revenues, as all intergovernmental revenues, have no relationship to a local government's legal authority, so self-government powers make no difference.

Although self-government powers do not affect intergovernmental revenues per se, progressive organizations and managers can bring in new types of intergovernmental revenues. Helena has been particularly effective in this regard, especially in getting grants for the model cities and traffic safety programs.

The Miscellaneous Revenues History of Helena

The largest components of this revenue class are interest and interfund transfers. Although interest earnings vary greatly as economic conditions change, Helena did implement a new investment program during FY 79 that helped to increase interest earnings by 100 percent. Again, Helena has no different legal authority in this area as compared to general power governments; MCA 7-1-114 (1)(g) requires self-government units to follow all laws regulating all local governments' budget, finance, and borrowing procedures.

Helena has taken progressive steps also in the area of interfund

transfers. Interfund transfers are monies transferred from other funds for expenditures made within the general fund. One type of transfer is where taxes are levied under the authority of a special levy and then transferred into the general fund; an example is the special levy for the employee retirement system. Interfund transfers also occur when general fund expenditures are made on behalf of special districts. In this regard, Helena has increased the reimbursements from the Street Maintenance District to the general fund for Street Department expenditures because of additional authority granted by the 1983 Legislature.⁶⁵ Helena also followed up on the recommendations of the Alternate Revenue Committee and adopted additional service districts by adopting park maintenance districts and a dust control district.

Helena Case Summary

Overall, Helena has undertaken major efforts to diversify revenues away from property taxes. Most of the actual diversification has occurred either because of legislatively mandated changes or measures allowed by law for all local governments. The major effort attributable to self-government powers was the extension of the business licensing ordinance to occupations which general power governments cannot license. However, this additional authority only resulted in approximately \$ 12,000 of license revenue last year.

The authority to create new fees has not resulted in new revenues

⁶⁵The 1983 Montana Legislature allowed the costs of graveling, oiling, chip sealing, seal coating, overlaying, treating, and snow removal to be added to these districts and thus not supported by the general fund. See MCA 7-12-4401.

despite the nationwide trend in the past five years towards creating new user fees. Although Helena has made significant efforts to diversify revenues, Bozeman's efforts also must be examined in order for the case study comparison to be valid.

BOZEMAN CASE STUDY

The City of Bozeman has also taken progressive steps to diversify its revenues and improve its financial practices over the past five years. A special problem arose during the Bozeman case study in that much of the information gathered had to be reconstructed from Bozeman's general ledgers. Bozeman did not even have audited financial statements prepared until 1982 and much of the information in previous year's unaudited reports, when available, could not be considered accurate.⁶⁶ The accounting procedures became so bad during the late 1970's that some elected officials were not re-elected and some key staff people lost their jobs when the disposition of some revenues could not be properly accounted for.⁶⁷ Bozeman has greatly improved its financial procedures since that time, the evidence being its first unqualified audit opinion on all funds in FY 83.⁶⁸ The absence of valid records prior to FY 80 only allows for data since then to be presented. However, the last five years are the most important for comparative purposes because Helena did not really consider the

⁶⁶Interviews with various Bozeman officials: Amy Swan, former Finance Director; Ken Weaver, Mayor and; Ken Vail, Controller. Interviews conducted at various times and dates.

⁶⁷Interview with Ken Weaver, Mayor of Bozeman, 9 August 1984

⁶⁸"City receives high grades for clean audit report," Bozeman Daily Chronicle, 1 November 1983, p. 9.

revenue authority of self-government powers until FY 79, and it is the difference in revenue authority since then that is the focus of this analysis.

A new City Manager, John Evans, was hired in 1981 to correct Bozeman's financial procedures. Although the accounting problems were his first priority, revenue diversification was his second main goal. As will be seen, Bozeman's major efforts have occurred in the past three years and are still being culminated. The present City Manager, Jim Wysocki, has only been in office since early 1984, but has focused his revenue efforts at making sure that enterprise fund programs are self-sufficient and reimburse the general fund for general fund costs which they create.⁶⁹

The Tax History of Bozeman

As shown in Table Three, Bozeman's taxes have decreased as a component of total revenues from 48 percent to 45 percent during the last five fiscal years. As with Helena, the major factors affecting this component's percentages changed either because of legislative actions such as excluding property taxes on light vehicles and business inventories or by actions taken by Bozeman in the other categories that diminish the percentage contribution of taxes.

⁶⁹Interview with Ken Weaver, Mayor of Bozeman, 29 November 1984.

TABLE 3
BOZEMAN'S REVENUE HISTORY
Fiscal Years 1980 To 1984
(Dollars)

	FY 1980	%	FY 1981	%	FY 1982	%	FY 1983	%	FY 1984	%
TOTAL TAXES	1,428,983	48	1,552,939	48	1,342,265	44	1,357,448	44	1,640,113	45
TOTAL LICENSES AND PERMITS	183,094	6	205,425	6	213,727	7	325,325	11	320,323	9
TOTAL FEES	409,475	14	312,659	10	242,284	8	307,414	10	351,764	10
TOTAL FINES	137,277	5	182,554	6	222,763	7	290,884	9	281,796	8
TOTAL INTERGOVERNMENTAL	583,071	20	458,793	14	602,486	20	661,715	21	842,325	23
TOTAL MISCELLANEOUS	226,293	8	518,895	16	443,186	14	154,129	5	209,965	6
<hr/> TOTAL REVENUES	<hr/> 2,968,193	<hr/> 100	<hr/> 3,231,265	<hr/> 100	<hr/> 3,066,711	<hr/> 100	<hr/> 3,096,915	<hr/> 100	<hr/> 3,646,296	<hr/> 100

Sources: City of Bozeman, Ledgers, various years. Own Calculations.

*Percentages may not add to 100 because of rounding methods.

Figures shown are adjusted figures - See Appendix B.

The License and Permit Revenue History of Bozeman

After rearranging Bozeman's accounts to be comparable to Helena's classifications (see annotations in Appendix B), the category of licenses and permits shows a significant increase in both dollars received and percentage contribution. This increase was primarily caused by a comprehensive revision of both general business licenses and building permits during fiscal year 1983.

During 1982 and 1983, the City of Bozeman completed a study of licensing laws and the practices of other Montana cities that resulted in an overhaul of its licensing ordinance. The staff wrote the new ordinance in a way such that all businesses and occupations would be licensed because the fee schedule was based on the physical occupancy of the business (square footage of the business's offices), not on the business per se. After further investigation, the staff decided that trying to license occupations that are excluded by state

law would result in losing a court case.⁷⁰ The novel fee schedule was adopted, but it only applies to the businesses and occupations that general power governments can license. Revenues from general business licenses almost quadrupled in FY 83, going from \$ 20,632 to \$ 82,937.

The City of Bozeman also revised its building permit schedule during FY 83 when it adopted the 1982 revision of the Uniform Building Code. This revision increased fees from building and associated permits by 26 percent between FY 82 and FY 83.

The Fee (Charges For Services) Revenue History of Bozeman

Bozeman's fee revenues have fluctuated during the past five years. Efforts were made during that period to increase user fees, but the fluctuations were caused by changes in the two major components, SID administration charges and utility administration charges.⁷¹

The category of Billings to Departments has fluctuated because the City varied these charges to ensure that all of the enterprise funds remained solvent. These charges fluctuated from \$ 110,482 in FY 80, to only \$ 12,091 in FY 82, and back up to \$ 116,453 in FY 84 (See Appendix B-Table 14). After FY 82, the City Commission declared that the enterprise funds will have to be self-supporting for all charges and that user fees will have to be adjusted accordingly.⁷²

Special Improvement District Administration Charges decreased

⁷⁰Interview with Donald Barrick, Assistant City Manager of Bozeman, 14 August 1984.

⁷¹Utility administration charges are called Billings to Departments in Bozeman.

⁷²Interview with Donald Barrick, Assistant City Manager of Bozeman, 4 October 1984.

from \$ 125,937 in FY 81 to zero in FY 84. This fluctuation was caused by an effective moratorium placed on SID's which were being used to develop bare land into subdivisions. Because of high levels of delinquencies on this type of SID and a court case on one such SID, the Commission decided that no bare land SID's would be granted until a new policy was adopted.

Other efforts to expand fee revenues have focused on recreation fees. A careful analysis of the indoor pool's operations led to cost cutting measures and fee increases during FY 83. The fee increases raised revenues by eighty-one percent for that year.⁷³ In addition, six new recreation fees were added during FY 84 to help offset the cost of these programs. Overall, Bozeman has recently put a strong emphasis on adjusting fees to make many of their programs more self-supporting.⁷⁴

The Fine Revenue History of Bozeman

Bozeman has also made efforts to decrease crime and offset the increasing costs of public safety by a change in the Municipal Court's enforcement of ordinances. Although increased revenues are not the purpose of fines, a newly elected Municipal Judge applied the laws more strictly than predecessors and this application also affected revenues.⁷⁵ Fine revenues increased from \$ 182,554 to \$ 290,884 in the two year period from FY 81 to FY 83.

⁷³Interview with Ken Weaver, Mayor of Bozeman, 30 October 1984.

⁷⁴Interview with Ken Vail, Bozeman Controller, 4 October 1984.

⁷⁵Interview with Ken Weaver, Mayor of Bozeman, 30 October 1984.

The Intergovernmental Revenues History of Bozeman

As with Helena, the major components of Bozeman's intergovernmental revenues are gas tax and general revenue sharing. Changes in these revenues are largely independent of efforts by Bozeman's officials because legislative formulas determine these funds' distributions. Although Bozeman shows a dramatic decrease in general revenue sharing during FY 81, this fluctuation was caused by an accounting error and the correct amount could not be determined (See Appendix B - Table 15). The amount is out of line with the trend of other years and other cities experiences in FY 81. If the correct amount could have been determined, the overall level of intergovernmental revenues would have been closer to other years' percentages.

Bozeman has not pursued federal grants to the same extent that other urban areas in Montana have. For example, they did not participate in the federally funded Selective Traffic Enforcement Program that allowed cities to hire civilian traffic officials to write traffic tickets and respond to accidents where a sworn officer was unnecessary. Despite the less aggressive pursuit of intergovernmental revenues, the percentages in Table Three reveal that Bozeman still relied on intergovernmental revenues quite heavily.

The Miscellaneous Revenue History of Bozeman

Bozeman's miscellaneous revenues have shown great variation during the five year period. Much of this variation was caused by poor allocation of interest revenue to the different funds that

contributed cash balances for investment.⁷⁶ In FY 83, a new mechanism was implemented so the years before FY 83, especially FY 81 and FY 82, are more aberrations than they are indicative of better efforts by the City.

Bozeman does not use the category of interfund transfers to the extent that Helena does for two reasons. First, instead of having the general fund make all of the expenditures for these funds, Bozeman posts the applicable expenditures directly to the special fund. Secondly, Bozeman has not established as many service districts as Helena has and therefore has not relieved the general fund of these expenditures. The fluctuation in FY 82's figures were caused by the solvency problems in the city's enterprise funds during that year.

Bozeman Case Summary

Overall, Bozeman has recovered from its financial problems of the past and has made progressive efforts to diversify its revenues during the past five years. Highlights of those efforts include revision of the general business license ordinance, mandating that enterprise funds will pay all relevant administrative charges, and adopting other new fees. How well Bozeman's revenue diversification efforts compare to Helena's efforts is examined in the next section.

COMPARISON OF EFFORTS

During the past five years, both cities have made comparable efforts to diversify revenue sources. In the tax category, both cities were affected identically by acts of the state legislature.

⁷⁶Interview with Ken Vail, Bozeman Controller, 4 October 1984.

The other categories, where individual city efforts can have an effect, are analyzed individually.

In the licenses and permits category, Helena and Bozeman both did comprehensive reviews of the general business license ordinances. Both cities were able to greatly increase revenues in this area. As previously mentioned, self-government powers do make some difference for license and permit revenues. The amount of license and permit revenues attributable to this additional licensing authority, \$ 12,000 for Helena in FY 84, is not that significant when compared to Helena's general fund revenues of \$ 5,231,712. Both cities also adjusted building permits as they adopted revisions of the Uniform Building Code.

Regarding fees, both cities strove to increase use of this important method of diversification. Both cities have administrative charges for SID, enterprise, and other funds, although some special financial situations in Bozeman precluded their use to the same extent that Helena used them. These special circumstances were an effective moratorium on SID's and cash flow problems within the enterprise funds. With an SID policy in effect and the increased solvency of enterprise funds, it is expected that Bozeman's revenues from these areas will increase in FY 85 and more diversification will occur.

As for other fees, Bozeman even has one fee, Special Police Services, that Helena does not have. Although this fee is related to university events unique to Bozeman, its existence indicates Bozeman's efforts to use fees to a great extent. Both cities also increased and expanded the scope of recreation fees recently.

In the area of fines, court orientations towards prosecution resulted in increased revenues for both cities. Although different methods were used and the purpose was not solely to increase revenues, these efforts did result in higher revenues in both cases.

Both cities rely on intergovernmental revenues extensively. Although it was determined that Helena was a little more aggressive in pursuit of intergovernmental revenues, Bozeman relied somewhat more heavily on this category as a percentage of all revenues. The two biggest factors for both cities, gas tax and general revenue sharing, are beyond the control or efforts of the cities. The levels of these two revenue sources are controlled by factors such as population, road mileage, and tax effort and are unaffected by any special efforts made by a city.

In the category of miscellaneous revenues, Helena has been more aggressive in its use of this category, with the difference being in the use of interfund transfers. Both cities use these transfers to reimburse the general fund for expenditures charged to it on behalf of other funds, but Helena has greatly expanded the scope of this use. Part of the difference is only in accounting methods, but Helena still reimburses more costs. Although Bozeman posts expenditures directly to other funds rather than using transfers as reimbursements, the effect of this practice is negligible. The effect on the revenue reliance percentages is essentially the same whether a local government expends the money directly from other funds or expends the money from the general fund and reimburses the general fund from the other funds. Helena uses interfund transfers for many costs incurred on

behalf of special district funds, the rehabilitation loan program, and the expanded services of the Street Maintenance District. Yet, all of these procedures are available for all local governments, not just self-government units.

It appears that very similar efforts were made by both cities, with the significant differences being:

- 1) Extenuating financial conditions in Bozeman which precluded using SID and utility administrative charges to a greater extent;
- 2) The greater use of interfund transfers by Helena to reimburse the general fund for more expenditures made on behalf of special district or special levy funds;
- 3) More extensive use of general business licenses by Helena.

However, only the licensing difference is directly attributable to self-government powers and this revenue power is not very significant. The first two differences are the primary causes of the cities' revenue reliance variations. Although power to establish more fees is available for all governments, significant opportunities for greater use of this power do not exist. How much these differences actually meant to the cities in terms of revenue diversification is analyzed by comparing each city's revenue trends.

ANALYSIS OF HELENA AND BOZEMAN'S REVENUE EXPERIENCES

Tables Four and Five show the recent five-year revenue trends for Helena and Bozeman. As mentioned, because Helena did not consider the revenue aspects of self-government powers until FY 79, the last five years are the important years to examine.

Until fiscal year 1984, both cities' tax trends were similar.

TABLE 4
HELENA'S REVENUE HISTORY
Fiscal Years 1980 To 1984
(Dollars)

HELENA'S REVENUE HISTORY	FY 1980	%	FY 1981	%	FY 1982	%	FY 1983	%	FY 1984	%
TOTAL TAXES	1,513,189	42	1,716,762	44	1,938,457	45	2,049,552	42	1,898,927	36
TOTAL LICENSES & PERMITS	241,386	7	238,837	6	312,769	7	630,404	13	528,653	10
TOTAL FEES	889,819	25	840,933	21	741,471	17	595,173	12	726,367	14
TOTAL FINES	145,179	4	156,147	4	145,659	3	245,369	5	266,698	5
TOTAL INTERGOVERNMENTAL	571,080	16	716,879	18	843,461	20	877,483	18	1,025,798	20
TOTAL MISCELLANEOUS	219,832	6	268,289	7	308,659	7	561,954	11	785,269	15
TOTAL REVENUES	3,580,485	100	3,937,847	100	4,310,676	100	4,979,935	100	5,231,712	100

SOURCES: City of Helena, Budget Documents, various years. Own Calculations.

*Percentages may not add to 100 because of rounding methods.

TABLE 5
BOZEMAN'S REVENUE HISTORY
Fiscal Years 1980 To 1984
(Dollars)

	FY 1980	%	FY 1981	%	FY 1982	%	FY 1983	%	FY 1984	%
TOTAL TAXES	1,428,983	48	1,552,939	48	1,342,245	44	1,357,448	44	1,440,113	45
TOTAL LICENSES AND PERMITS	183,094	6	205,425	6	213,727	7	325,325	11	320,323	9
TOTAL FEES	409,475	14	312,659	10	242,284	8	307,414	10	351,764	10
TOTAL FINES	137,277	5	182,554	6	222,763	7	290,884	9	281,796	8
TOTAL INTERGOVERNMENTAL	583,071	20	658,793	14	602,486	20	661,715	21	842,325	23
TOTAL MISCELLANEOUS	226,293	8	318,895	16	443,186	14	154,129	5	209,965	6
TOTAL REVENUES	2,968,193	100	3,231,245	100	3,044,711	100	3,096,915	100	3,644,286	100

SOURCES: City of Bozeman, Ledgers, various years. Own Calculations.

*Percentages may not add to 100 because of rounding methods.

The wide divergence between the cities in FY 84 can be partially explained by Bozeman's moratorium on SID's during that year. If SID's had been allowed and a normal amount of administrative charges (\$ 100,000) had been received from these SID's, less taxes would have been levied and Bozeman's percentage reliance on taxes might only have been 42%.⁷⁷

Both cities show very similar trends for licenses and permits with the major variation being Helena's abnormal amount of building permits in FY 83 after the hailstorm. The one percent difference between the two cities for this category's revenue contribution in FY 84 is attributed to the additional licensing authority granted to self-government units.

Helena and Bozeman have shown differing trends regarding fee revenue, but because of MCA 7-1-4123 (7) and the Supreme Court case of State ex. rel. Swart v. Molitor, they both have essentially the same fees.⁷⁸ It is the fluctuations of these fees that caused the differences. Helena's dramatic decreases were caused primarily by decreases in administrative charges for SID's and other funds. These two charges' fluctuations affected Bozeman even more because SID

⁷⁷Taxes of \$ 1,640,113 minus approximate SID charges of \$ 100,000 equals \$ 1,540,113 divided by total taxes of \$ 3,646,286 equals 42 %.

⁷⁸Further evidence that self-government powers has not led to greater use of fees is found in the City of Billings Budget Document. In FY 84, Billings only had two significant fees that were not used by Helena or Bozeman. Billings received \$ 145,975 in fees for Industrial Development Revenue Bond (IDRB) applications and \$ 234,978 in Storm Sewer Maintenance Charges. Yet, both of these charges are available for all local governments. MCA 7-13-4304 authorizes all sewer related charges and general power governments have relied on MCA 7-1-4123 (7) as authorization for IDRB application fees. Sources: City of Billings, Budget Document, FY 84-85, p. 16 and interview with Mae Nan Ellingson, Attorney, 5 November 1984.

administration charges were zero in FY 84. The two cities' trends would have converged more if Bozeman had received normal SID administration fees in FY 84.

Specific efforts by each city to raise revenue were not the most important reasons behind the trends of fines and intergovernmental revenues. Although both cities increased fine revenues, deterrence of crime, not increased revenues, was the major purpose of the changed programs and attitudes. The category of intergovernmental revenues is dominated by gas tax and general revenue sharing funds, which are revenue sources beyond the control of local governments. The dominance of intergovernmental revenues by these two components means that successful efforts to obtain other grants have not influenced the revenue reliance percentages very much. Also, other grants have become less numerous, harder to receive, and are often for projects that would not be funded by the general fund if the grants were not available.

The miscellaneous revenues category is where the greatest divergence occurred between the two cities' revenue trends. Helena established more service districts and attributed more general fund services and costs to the special districts, thus more money was reimbursed to the general fund. An example is Helena's Street Maintenance District. The 1983 Legislature allowed more street functions such as snow plowing, chip sealing, and patching to be added to the district. Helena used this authority and increased the district's contribution to the general

fund by over \$ 147,000 in FY 84.⁷⁹ Again, this power is available for all local governments, not just self-government units.

CONCLUSIONS

The case studies reveal that Helena and Bozeman matched up as well as can be expected on various factors affecting revenue trends. Furthermore, both cities made similar efforts to diversify their revenue bases, especially during the last five years. Although Helena has shown greater diversification away from taxes as compared to Bozeman, the biggest margin was in FY 84. This particular year was an abnormal year for Bozeman in that no special improvement districts were established and no fees from these districts were received.

One major differences in effort was that Helena established a broader licensing ordinance, although Bozeman did consider an ordinance to try to license previously excluded professions. The other major difference was in the area of interfund transfers where Helena has been particularly aggressive in establishing new service districts and charging the Street Maintenance District for costs formerly borne by the general fund.

The question remains whether self-government powers do allow for significant revenue diversification. The additional licensing power has allowed for Helena to add approximately \$ 12,000 in revenues that it would not have if the City were limited to general power

⁷⁹As the Street Department is part of the general fund, the allowable costs of the district are reimbursed by the special assessments made on the district. Appendix A lists Helena's Interfund Transfers.

laws. Yet, \$ 12,000 is not very significant in terms of all of Helena's revenues.

As for any additional fee power, this authority exists for all local governments, but its existence is not all that useful. To create new fees that exist in municipalities of other states would often require staffs the size of these municipalities; these additional costs would more than offset any revenue gains or tax substitution. As technology increases, new fee collection mechanisms may be created and become less costly thus allowing for more fees, greater revenue diversification, and a more equitable revenue pattern.

Revenue diversification has occurred for both cities, but the amount of diversification directly attributable to the legal authority of self-government powers is not very significant. The primary causes of diversification have been actions by the state legislatures, followed by more aggressive use of revenue powers allowed by general law, and then the use of self-government powers.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

INTRODUCTION

This paper has examined the intent of the Constitutional Convention's delegates, the legislative implementation and judicial review of the Constitution's self-government provisions, and the efforts made to determine and use self-government powers' additional revenue authority. Despite the Constitutional Convention delegates' expectations, the analysis indicates that self-government powers have been allowed only a small amount of additional revenue authority. The intent, implementation, and realization of self-government units are reviewed below.

SUMMARY OF INTENT

The review of historical documents and interviews in Chapter Two reveals that the Constitutional Convention's delegates gave a softly spoken, but strongly implied intention for self-government units to have additional revenue powers. Although the delegates fully anticipated the Legislature's duty to maintain control of certain powers to insure uniformity and equality, they also endorsed more local control and flexibility. The interviews confirmed that additional revenue authority is a prerequisite for increasing local control and flexibility.

SUMMARY OF LEGISLATIVE IMPLEMENTATION AND JUDICIAL REVIEW

Once the delegates had expressed their intent at the convention and the Constitution was ratified, the Legislature began implementing the self-government provisions. Based on the recommendations of the State Commission on Local Government, the 1975 Legislature enacted Title VII, Chapter One which delineates the limits of self-government powers. Although the Legislature precluded the use of local sales or income taxes, it gave self-government units the ability to establish any other taxes and indirectly allowed the local license power to be expanded.

When the Legislature considered House Bill 122, however, the bill was so large and comprehensive that it did not pass. This bill would have allowed local income, hotel-motel, fuels, and motor vehicle taxes. It also would have freed all local governments to establish fees without enabling legislation. Yet, this bill's revenue provisions pertained to all local governments and was not solely for self-government units.

After House Bill 122 failed, many of its provisions were split into smaller proposals at subsequent sessions of the Legislature. A part of one such proposal, Senate Bill 503, was passed in 1979 which gave all local governments more power to establish fees. The resulting statutory provision, MCA 7-1-4123 (7), has been interpreted to allow fees when the laws allow for the provision of a service.

Several Supreme Court cases were described in Chapter Three. Two cases, State ex. rel. Swart v. Molitor and Harlen et al. v. City

of Helena did expand the revenue authority of self-government units.⁸⁰ Yet, a liberal interpretation of MCA 7-1-4123 (7) for all local governments has rendered the additional fee power gained in the Molitor case inconsequential. The Helena case did allow for expanded licensing authority, yet, as shown in Chapter Four, this additional authority is not significant in monetary terms.

The third case, Montana Innkeepers Association v. City of Billings did not result in any additional revenue authority for self-government units.⁸¹ Billings' hotel-motel fee was determined to be a sales tax and therefore illegal. The loss of revenue authority in this case, the enactment of mill levy limits in self-government charters, and the lack of legislative implementation of additional revenue authority for self-government units, means that the only usable difference in revenue authority for self-government units is the expanded license authority.

SUMMARY OF REALIZATION OF REVENUE AUTHORITY - CASE STUDIES

Even though self-government units had achieved only a little more revenue authority from the Legislatures and the Supreme Court, case studies were conducted to determine if self-government units had found novel ways to diversify revenues. The case studies were of Helena, a self-government unit, and Bozeman, a general powers government. These two cities were chosen because they matched up

⁸⁰State ex. rel. Swart v. Molitor 621 P.2d 1100 (1980); Harlen et al. v. City of Helena 41 St. Rep. 162 (1984).

⁸¹Montana Innkeepers Association v. City of Billings 40 St. Rep. 1753 (1983).

well on other factors which affect cities' revenues. The hope here was to compare each city's efforts to diversify revenues and to attribute any difference in their revenue trends to their different legal authorities. Although very similar efforts to diversify revenues were made by both cities, Helena had more revenue diversification than did Bozeman. However, evidence was provided that most revenue diversification was caused by state laws which had transferred some revenue sources from taxes to other categories, Helena's greater use of general power laws, and some special circumstances in Bozeman, not because Helena had found imaginative ways to use self-government powers. Again, the case studies indicated that the only usable difference in revenue authority between self-government units and general power governments is that self-government units can license more professions than other governments can.

PROSPECTS FOR FUTURE REALIZATION OF REVENUE AUTHORITY

Self-government units must look to the future for obtaining additional revenue authority. The 1985 Legislative session will feature many new bills to authorize local option taxes, additional revenue sharing by the state with local governments, and more state assumption of funding certain local activities.

The area of local option taxes is where the Legislature has the greatest opportunity to finish implementing the intent of the Constitutional Convention's delegates. The Legislature can prevent the deterioration of fiscal condition of cities by carefully considering these local option taxes. These local option taxes should be allowed

so as to lessen the tax burden of property taxpayers. There is a strong connection between the fiscal condition of urban areas and the limitations on tax and revenue diversification. A nationwide study has found, "... a strong inverse correlation between the number of restrictions imposed on non-property taxes and the fiscal health of cities."⁸²

Although revenue diversification is urgently needed for all local governments, the Legislature should consider restricting one of the local option taxes to self-government units. The Legislature could allow all local governments to adopt a local option hotel-motel tax when passed in a local referendum. This authority would allow for some payment of governmental services by visitors to the area and would allow for significant revenue diversification by many local governments.

Regarding the local option income tax, however, the Legislature should consider restricting its use to self-government units. The delegates to the 1972 Constitutional Convention were clear in their position that self-government powers should be a vehicle for modernizing and improving local government's revenue authority. They hoped that self-government powers would increase local control, flexibility, and accountability.

Moreover, other states with the same type of 'residual powers' constitutions as Montana's do allow their 'self-government' units

⁸²Susan S. MacManus, "The Impact of Functional Responsibility and State Legal Constraints on the 'Revenue-Debt' Package of U.S. Central Cities," International Journal of Public Administration 3 (1981), p. 68.

to have different taxing powers than other cities have.⁸³ Missouri's self-government units are the only cities specifically authorized to levy an earnings tax. The earnings tax is applicable to the income of all employees, businesses, and associations.⁸⁴ In Kansas, only self-government units have won the authority to levy a sales tax and an occupation tax.⁸⁵ Kansas' occupation tax is an expansion of business licensing whereby license rates can be adjusted to raise general revenue, not just to offset the cost of regulating the licensed professions.

Therefore, based on the intent of the Constitutional Convention delegates and the experiences of other states, revenue authority is an integral component of self-government powers. To be meaningful in Montana, then, self-government powers must include the ability to generate significant, additional revenue sources.

CONCLUSIONS

An intent to allow self-government units new revenue sources has been documented in this paper. The 1985 Legislature has the opportunity to fulfill the intent of the 1972 Constitutional Convention's

⁸³Self-government powers in Missouri are called Constitutional Charter powers and are called home rule in Kansas.

⁸⁴Vernon's Annotated Missouri Statutes, 92.110 and 92.210; and Rhonda C. Thomas, "Recent Developments in Missouri: Local Government Taxation," UMKC Law Review 49 (Summer, 1981), pp. 492-495.

⁸⁵Dee Clark and Jane Clark, Appellants v. City of Overland Park, Kansas, Appellee. No. 49880, Supreme Court of Kansas. Kan. 602 P.2d 1292 (1979); and

E. Conita Callaway, an Individual, et al., Appellants v. City of Overland Park, Kansas, a municipal corporation, Appellee. No. 46344, Supreme Court of Kansas. Kan. 508 P.2d 902 (1973).

delegates by giving additional revenue powers to self-government units. An explicit grant of revenue authority is necessary to achieve significant revenue diversification and avoid the court cases that have resulted from self-government units' attempts to increase revenue authority. True self-government will not exist in Montana until these jurisdictions are given sufficient revenue authority to realize their potential. It is time to finish another part of the agenda that was established at the 1972 Montana Constitutional Convention.

APPENDIX A

CONSTITUTIONAL CONVENTION PARTICIPANTS WHO WERE INTERVIEWED

Delegates Who Were Interviewed

<u>Name</u>	<u>Position</u>	<u>Interviewed</u>
Oscar L. Anderson	Local Government (L.G.) Committee Chair	Yes
Franklin Arness	L.G. Committee Member	Unavailable
Thomas M. Ask	L.G. Committee Member	Yes
Virginia Blend	L.G. Committee Member	Deceased
Jean Bowman	Convention Secretary	Yes
Bruce M. Brown	Eastern District V.P.	Yes
Dorothy Eck	Western District V.P.	Yes
Marian S. Erdmann	L.G. Committee	Unwilling
Leo Graybill, Jr.	Convention Chairman	Yes
Arnold W. Jacobsen	L.G. Committee	Yes
M. Lynn Keeley	L.G. Committee	Yes
Katie Payne	L.G. Committee	Deceased
George W. Rollins	L.G. Committee	Unavailable
Clark E. Simon	L.G. Committee	Yes
Lucile Speer	L.G. Committee	Yes
John H. Toole	Convention 1st V.P.	Yes

Staff Members Who Were Interviewed

<u>Name</u>	<u>Position</u>	<u>Interviewed</u>
Dale Harris	Executive Director	Yes
Jerry Holloron	L.G. Committee Research Analyst	Yes

INTERVIEW QUESTIONS

1. Did the 1972 Constitutional Convention delegates intend to enhance the revenue raising authority of local governments that adopted self-government powers?
2. If yes, what were the delegates' expectations as to the specific means of increasing revenue authority?
3. If no, what did the delegates intend regarding the revenue authority of local governments with self-government powers?

APPENDIX B

ANNOTATIONS OF CHANGES

In order for the comparison of the revenue histories to be valid, I had to be sure that both cities classified their revenues in the same manner. Both cities, throughout the period studied, had different ways of classifying the revenues among the six categories. For example, Helena had changed from classifying Utility Administration Charges as a Charge For Service to classifying it as a Miscellaneous category in 1982. Meanwhile, Bozeman always classified these revenues as a Charge For Service. So, the following changes were done in order for the two cities to have consistent and comparable revenue classifications.

Changes Affecting Both Cities

Even if Revenue Sharing and Gas Tax funds were accounted for in a Special Revenue fund for part of the time, the total amounts that each city received were added to the General Fund revenues for each year. This adjustment was done because the revenues were used for "general fund purposes" such as buying capital for general fund departments or supplementing the general fund street program.

Changes Affecting Helena's Revenues (by category)

Taxes - Liquor and Beer Tax for FY 74-77 was transferred to Intergovernmental Revenues because that is how they were classified during later years.

Motor Vehicle Road Tax for FY 74-77 was transferred to Licenses and Permits as MV Plate Fees because that is what the "Road Taxes" became in FY 78.

Deducted \$178,619 in FY 78 because of an accounting error that was not discovered until FY 79.

Transferred MV Light Vehicle License Fee to Taxes because Bozeman does not post these fees to Licenses and Permits, but just posts them to their former classification of property taxes.

Licenses- & Permits Transferred MV Light Vehicle License Fee to Taxes.

MV Plate Fees for FY 84 were estimated at \$60,000 because beginning in FY 84 these fees were no longer separated from the Light Vehicle License Fee. This separation was necessary because of the inclusion of Light Vehicle fees in the tax category.

Fees - Utility Administration Charges were placed in this category for all years.

Transferred County Reimbursement for Library From Fees to Intergovernmental Revenues to conform to Bozeman's accounts.

Intergov- Transferred County Reimbursement for Library From Fees to Intergovernmental Revenues to conform to Bozeman's accounts.

Added entire amount of General Revenue Sharing and Gas Tax.

Misc. - Subtracted the Interfund Transfers for Revenue Sharing and Gas Tax because the entire amount of these funds was included. To also include the Interfund Transfers would have been double counting.

Changes Affecting Bozeman's Revenues (by category)

Taxes - Transferred the State's MV Reimbursement funds from Taxes to Intergovernmental Revenues to conform to Helena's accounts and the Statewide accounting structure, BARS.

Licenses- Transferred MV Plate Fees and Title Registration Fees
& Permits from Intergovernmental Revenues to Licenses and Permits to conform to Helena's accounts and BARS.

Transferred Gambling Investigation Fees from Fees-Charges for Services to Licenses and Permits to conform to Helena's accounts and BARS.

Separated Building and associated permits from the Building Permits and Fees category and placed them in Licenses and Permits.

Fees - Separated Safety Inspection, Plan Checking, Demolition and Dumping, Maps and Prints, and Sales of Code Books from the Building Permits and Fees category and placed them in Licenses and Permits.

Transferred Senior Citizens Center Rental into Miscellaneous Revenues to conform to Helena's accounts and BARS.

Transferred Gambling Investigation Fees from Fees-Charges for Services to Licenses and Permits to conform to Helena's accounts and BARS.

Intergov- Excluded CETA funds from all years on the premise that these funds were not general fund relief. Had the funds been cut, the positions would have been cut rather than supported by the general fund.

The Gallatin County Library account had a negative balance of <328.10> in FY 80. This amount was changed to \$ 11,516.25 based on an adjustment that was made in FY 81. FY 81's accounts were also adjusted as necessary.

Included all Gas Tax and Revenue Sharing receipts, but excluded the interest earned from cash balances in these funds because these balances just accumulated in the funds.

Misc. - Transferred Senior Citizens Center Rental from Charges For Services to Miscellaneous Revenues to conform to Helena's accounts and BARS.

Eliminated an adjusting entry of "Cash Over & Short." This entry occurred only in FY 80 and FY 81 and was only \$ 10.85 and \$ 1.92 respectively.

TABLE 6

The Tax History of Helena

HELENA TAXES	FY 1974	FY 1975	FY1976	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
Real Property	1,345,312	1,399,035	1,438,217	1,595,530	1,664,237	1,443,494	1,205,422	1,322,408	1,561,818	1,656,608	1,525,158
Personal Property						110,640	55,937	115,135	128,182	152,423	100,688
Motor Vehicle Property						268,462	251,830	279,219	253,943	47,960	105,934
TOTAL PROPERTY TAXES	1,345,312	1,399,035	1,438,217	1,595,530	1,664,237	1,822,596	1,513,189	1,716,762	1,943,943	1,856,991	1,731,980
Penalty and Interest on Del. Tax									11,532	20,460	23,656
LIGHT VEHICLE LICENSE FEE *	0	0	0	0	0	0	0	0	2,982	192,101	143,291
TOTAL TAXES	1,345,312	1,399,035	1,438,217	1,595,530	1,664,237	1,822,596	1,513,189	1,716,762	1,958,457	2,069,552	1,898,927

* THIS FEE INCLUDED HERE BECAUSE BOZEMAN POSTS THEIR LIGHT VEH. FEES IN THIS CLASSIFICA. SEE APPENDIX B ANNOTATIONS ON PAGES 70 - 72.

\$ 60,000 WAS SUBTRACTED FROM THE FY 1984 FIGURE BECAUSE MV PLATE WERE NOT SEPARATED FROM LIGHT VEH. LIC. FEE AND NEED TO BE FOR PURPOSES OF THIS PAPER. SEE APPENDIX B ANNOTATIONS ON PAGES 70 -72.

TABLE 7

The License and Permit Revenue History of Helena

HELENA LICENSES & PERMITS	FY 1974	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
Motor Vehicles											
Motor Vehicle Plate Fees	21,543	21,247	67,041	84,167	80,226	74,510	71,017	65,741	58,467	58,935	60,000
Title Registration Fees	6,935	8,809	3,323	6,445	8,594	7,425	8,024	6,943	7,447	8,834	13,959
TOTAL MOTOR VEHICLE FEES	28,478	30,056	70,364	90,612	88,820	81,935	79,041	72,686	65,914	67,769	73,959
Alcoholic Beverages											
Liquor Licenses	18,610	20,730	19,371	14,920	21,450	43,920	24,020	29,705	16,383	18,920	17,515
Beer Licenses *									8,192	8,370	9,960
Wine Licenses			1,150	800	975	6,400	6,050	6,450	6,315	7,595	8,230
TOTAL ALCOHOLIC BEVERAGES	18,610	20,730	20,521	15,720	22,425	50,320	30,070	36,155	30,890	34,885	35,705
General Business Licenses											
Professional-Occupational	1,360	968	1,386	1,101	1,761	1,578	875	1,262	3,165	2,920	5,430
General Business	3,221	3,028	4,135	2,398	3,312	3,634	2,642	2,780	61,647	98,687	81,712
Cigarette License	607	652	630	577	630	390	555	605	1,415	855	1,125
Cable T.V. Franchise											
Gambling Licenses & Permits	150	13,023	12,667	13,388	16,638	24,925	16,750	20,825	36,350	114,997	77,287
Amusement Licenses & Permits									5,990	8,855	13,165
Gambling Investigation Fees										155	1,515
Real Licenses	231	258	246	239	250						
TOTAL GENERAL BUSINESS LICENSES	5,569	17,924	19,064	17,703	22,591	30,727	20,822	25,472	108,567	216,649	190,234
Non-Business Licenses & Permits											
Building Permits	15,407	15,202	35,222	57,316	53,064	54,560	49,390	63,430	66,788	247,011	157,704
Electrical Permits	3,713	2,898	3,920	11,770	18,161	13,529	13,806	13,490	11,133	15,139	16,315
Plumbing Permits	2,339	1,486	2,948	9,550	11,427	10,491	9,843	9,085	7,814	9,075	20,986
Real Estate Inspections						300	2,540	1,560	2,940	350	1,285
East Helena Inspections									3,281	13,250	4,416
Water Well Permits									265	100	75
Curb Cuts									149	285	435
Animal Licenses	2,029	10,412	11,198	9,245	8,176	7,649	6,578	5,643	2,956	3,470	3,554
Street Closing Permits	4,381	3,971	9,493	12,034	8,486	13,700	9,000	11,039	12,123	21,832	32,945
Sewer Taps										490	1,000
Bicycle Licenses	415	94	371	329	303	300	296	277	49	99	0
TOTAL NON-BUSINESS LIC. & PERMS	28,284	34,063	63,152	100,244	99,617	100,529	111,453	104,524	107,398	311,101	238,735
GRAND TOTAL LICENSES & PERMITS	90,941	102,773	173,101	224,279	233,453	263,511	241,386	238,637	312,769	630,404	528,653

* Beer licenses were combined with liquor licenses until FY82.

** THIS \$ 60,000 WAS ESTIMATED BECAUSE PLATE FEES WERE NOT SEPARATED FROM MV LICENSE FEES IN FY 1984. FOR PURPOSES OF THIS PAPER, THE FEES WERE SEPARATED BECAUSE LIGHT VEHICLE LICENSE FEES WERE TRANSFERRED TO TAXES TO CONFORM TO BOZEMAN'S RECORDS. SEE ANNOTATIONS ON PAGES 70-72.

TABLE 8

The Fee Revenue History of Helena

HELENA CHARGES FOR SERVICES	FY1974	FY1975	FY1976	FY1977	FY1978	FY1979	FY1980	FY1981	FY1982	FY1983	FY1984
Sale of Code Books										1,450	100
Accident Reports				1,089	1,105	1,598	326	1,388	1,866	3,325	3,221
Special Fire Protection	11,365	15,242	20,328	19,157	30,135	36,473	14,699	37,594	35,456	51,382	48,732
Street and Roadway Charges											
Parking Lot Meter Collections	834	563	486	659	596	489	786	940	5,513		
Weed Control				1,350	1,485	1,206	1,564	2,895	1,675	1,160	1,625
SID Administration Charges		100,867	159,232	213,645	360,573	293,431	327,098	309,703	208,578	126,036	215,769
Diazo Printing										1,648	1,760
Engineering Miscellaneous				13,211	26,282	41,367	28,054	15,970	29,633	29,543	30,219
Animal Control	1,671	5,957	1,996	1,200	975	1,251	850	915	3,440	3,200	2,126
Park Use Fees									13,906	9,167	13,146
Civic Center									14,868	21,117	35,129
Swimming Pool Fees	8,090	6,018	7,920	8,494	8,021	7,831	10,134	9,909	10,608	10,041	10,340
Swimming Pool Lessons	2,425	3,633	4,156	5,483	7,718	7,964	10,142	6,228	3,679	2,938	3,804
Recreation Fees			859	8,062	11,103	8,895	11,619	21,165	19,788	3,001	4,131
Golf Course Fees	31,034	35,617	41,404	42,498	52,288	60,058	79,422	99,494	116,900		
Basketball Fees							6,750	6,390	338		
Baseball Fees							5,133	4,520	7,406	18	0
Governor's Mansion Fees	1,942	3,138	3,921	7,362	3,958	3,757	4,312	704			
Tennis Lessons				2,319	3,350	2,741	3,100				
Helena Bus Transit Charge				16,949	23,250	21,924	22,228	40,201			
CIP Sidewalk				11,534	13,249	1,245					
TROOP				9,000							
Utility Administration Charges		119,864	110,241	109,987	196,941	189,880	363,602	282,917	267,817	331,147	356,265
TOTAL FEES - CHARGES FOR SERVICE	57,361	290,899	350,543	471,999	741,029	680,110	889,819	840,933	741,471	595,173	726,367

TABLE 9

The Fine Revenue History of Helena.

HELENA FINES		FY 1974	FY 1975	FY 1976	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
Court	Traffic	115,757	96,199	112,738	112,118	136,333	114,304	126,857	135,877	126,750	189,152	193,703
	Non-Traffic						9,222	15,169	15,014		28,028	41,454
	Animal Control							3,153	1,906	2,083	5,098	5,732
	Court Costs									17,026	23,091	25,809
	Driver Education						27,559		2,577			
	Crime Victims						8,265		773			
TOTAL FINES		115,757	96,199	112,738	112,118	136,333	159,350	145,179	156,147	145,859	245,369	266,698

TABLE 10

The Intergovernmental Revenue History of Helena

HELENA INTERGOVERNMENTAL	FY1974	FY1975	FY1976	FY1977	FY1978	FY1979	FY1980	FY1981	FY1982	FY1983	FY1984
Federal:											
Traffic Safety STEP									19,640	2,361	4,472
Revenue Sharing			82,679	165,535	72,160	142,000	126,139	230,000	230,652	61,562	40,339
Crime Control					33,661	12,987					
Bus Grant (Section 18)			65,986		11,849		38,000	59,611			
Urban Renewal	86,717	95,019	49,283	49,000							
C.D. Administration		1,948	30,000	40,751							
C.D. Housing Administration				13,000							
Model Cities	80,184	75,589									
TOTAL FEDERAL	166,901	172,556	227,948	268,286	117,670	154,987	164,139	289,611	276,072	286,707	305,455
State											
Block Grant											25,535
Energy Extension								1,272	21,178		
Liquor Tax	42,115	69,244	60,499	64,116	76,538	94,927	66,520	66,918	53,126	83,054	62,769
Wine Tax									14,197	4,080	4,092
Beer Tax	53,950	60,280	65,040	57,133	65,996	67,344	68,195	73,653	56,788	67,375	65,892
Gas Tax *	102,420	104,000	204,834	204,000	204,000	203,622	230,394	235,996	257,282	206,867	409,365
Corporation License Tax									29,488	21,307	22,947
Motor Vehicle Fee Differential									115,482	130,492	119,176
Bus Grant (State)				20,775	15,750	21,700	5,225	11,002			
LEAA			14,833	29,924							
Library Grant	1,400			4,727	13,236						
Traffic Safety	13,017	6,970					12,325	26,867			
State Parks	510										
TOTAL STATE	213,412	240,494	345,206	380,675	375,520	377,593	384,659	415,708	547,541	513,175	709,776
County											
County Traffic Safety	3,000	3,000									
County Fire Protection											
Cooperator Reimbursement							8,984	4,000	7,635	8,399	9,092
Library Reimbursement & Services	28,279	32,900							4,773	55,381	0
TOTAL COUNTY	31,279	35,900	0	0	0	0	8,984	4,000	12,408	63,780	9,092
Payments In-Lieu-Of											
Helena Indian Alliance									1,000		1,000
Helena Housing Authority	8,774	4,634		5,821	5,044	5,664	13,298	5,560	6,440	13,821	475
State of Montana	914										
TOTAL PAYMENTS IN-LIEU-OF	9,688	4,634	0	5,821	5,044	5,664	13,298	5,560	7,440	13,821	1,475
GRAND TOTAL - INTERGOVERNMENTAL	421,280	453,584	573,154	654,782	498,234	538,244	571,080	716,879	843,461	877,483	1,025,798

* All of gas tax monies are included because if they were unavailable, general fund monies would be used, so it is general fund relief.

TABLE 11

The Miscellaneous Revenue History of Helena

HELENA MISCELLANEOUS	FY1974	FY1975	FY1976	FY1977	FY1978	FY1979	FY1980	FY1981	FY1982	FY1983	FY1984
Interest Earnings	32,909	26,140	20,051	62,655	54,427	116,036	129,170	116,981	55,098	90,024	151,692
Building Rentals	39,540	43,962	43,929	49,103	72,879	27,997	16,320	20,695	4,413	1,625	1,325
Boiler Maint. Sewer & Water											0
Model Cities Development Corp.										1,440	0
Neighborhood Center Management										2,400	1,188
Board of Adjustment					1,414	2,458	990	945	975	875	2,375
Audit Fees Reimbursement											
Grounds Upkeep City/County						60	3,440	1,614	1,020	1,430	614
Compensation - Loss of Assets										33	149
Economic Development											250
Interfund Transfers *									219,620	432,985	602,248
East Side Fire Station Bond								1,941			
Bank Tax							33,059	27,537			
Receivables											
Library Special Payments							14,053	16,957			
Other	19,279	86,219	115,786	38,533	22,520	34,209	22,800	81,619	27,533	31,142	25,428
TOTAL - MISCELLANEOUS	91,728	156,321	179,766	150,291	151,240	180,760	219,832	268,289	308,659	561,954	785,269

* excluding Gas Tax and Federal Revenue Sharing transfers - already accounted for.

TABLE 12

The Tax History of Bozeman

BOZEMAN TAXES	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
CURRENT REAL ESTATE TAXES	989,721	1,077,090	1,021,904	980,847	1,292,507
DEL. TAXES - 1 YEAR	15,629	28,075	54,391	34,079	29,031
DEL. TAXES - 2 YEARS	1,845	7,390	10,493	7,285	15,292
DEL. TAXES - PRIOR YEARS	3,556	5,609	7,941	5,775	6,867
SUB-TOTAL REAL ESTATE TAXES	1,010,751	1,118,164	1,094,729	1,027,986	1,343,717
CURRENT PERSONAL PROPERTY TAX	105,739	154,651	32,109	186,454	136,071
DEL. P.P. TAXES - 1 YEAR	109,362	50,713	27,992	4,837	8,932
DEL. P.P. TAXES - 2 YEARS	925	10,173	834	598	355
DEL. P.P. TAXES - PRIOR YEARS	325	907	16	3	398
SUB-TOTAL PERSONAL PROP TAX	216,351	216,444	60,951	191,892	145,756
PENALTY AND INTEREST	2,785	5,863	9,770	11,631	10,057
MOTOR VEHICLES TAXES	199,096	212,468	176,815	125,939	140,583
TOTAL TAXES	1,428,983	1,552,939	1,342,265	1,357,448	1,640,113

TABLE 13

The License and Permit Revenue History of Bozeman

BOZEMAN LICENSES & PERMITS	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
MOTOR VEHICLES					
MOTOR VEHICLE PLATE FEES	60,888	60,020	56,556	58,312	45,622
TITLE REGISTRATION FEES	4,721	4,286	12,639	11,118	5,497
ALCOHOLIC BEVERAGES	22,940	25,490	25,931	27,670	28,211
GENERAL BUSINESS LICENSES					
PROFESSIONAL & OCCUPATIONAL	1,050	970	1,093	28	80
GENERAL BUSINESS *	22,095	21,720	20,632	82,937	86,720
GAMBLING, RAFFLE, & BINGO	12,999	6,713	8,497	33,204	26,141
GAMBLING INVESTIGATION FEES	950	1,375	1,225	1,900	500
SUB-TOTAL GENERAL BUSINESS LIC	37,094	30,778	31,447	118,069	113,441
NON-BUSINESS LICENSES & PERMIT					
ELECTRICAL PERMITS	5,201	5,571	8,266	13,465	15,847
PLUMBING - MECHANICAL PERMITS	9,143	8,720	2,612	11,230	18,129
SIGN PERMITS	758	563	5,904	7,400	7,295
MOVING PERMITS	210	180	500	410	260
DEMOLITION PERMITS	85	50	50	25	25
BUILDING PERMITS	36,340	64,344	64,282	72,831	81,290
ANIMAL PERMITS	5,714	5,423	5,540	4,795	4,706
SUB-TOTAL NON-BUS LIC & PER	57,451	84,851	87,154	110,156	127,552
 TOTAL LICENSES AND PERMITS	 183,094	 205,425	 213,727	 325,325	 320,323

†

TOTAL OF ACCOUNTS 3101 TO 3142 EXCLUDING 3101 - ALCOHOLIC BEVERAGES, 3111 - PROFESSIONAL AND OCCUPATIONAL, AND 3112 - GAMBLING, RAFFLE, AND BINGO

TABLE 14
The Fee Revenue History of Bozenan

BOZENAN CHARGES FOR SERVICES		FY 1980	FY 1981	FY 1982	FY 1983	FY 1984	BOZENAN CHARGES FOR SERVICES (cont.)		FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
BUILDING FEES							PUBLIC SAFETY - FIRE						
SAFETY INSPECTION FEES		125	70	25	115	25	SPECIAL FIRE PROTECTION		3,245	7,732	6,487	6,846	5,404
PLAN CHECK FEES		14,117	20,810	23,489	23,979	53,372	BURNING PERMITS		116	25	0	0	0
CONSTRUCTION & BURNING FEES		71	71	99	34	44	SAFETY BAG SALES		18	154	91	10	12
APPROVALS AND PERMITS		823	524	511	433	843	MATERIALS		45	0	0	0	0
FURNISHING CODE BOOKS		342	203	243	479	465	FIRE DEPT. SURPLUS		141	29	0	0	0
ELECTRICAL CODE BOOKS		25	40	28	25	94	SUB-TOTAL FIRE		3,585	7,940	6,578	6,856	5,476
PLUMBING CODE BOOKS		55	96	36	114	44	HIGHWAYS AND STREETS						
SIGN CODE BOOKS		3	0	24	0	0	PARKING METER FEES		31,525	3,497	0	0	0
MECHANICAL CODE BOOKS		44	36	0	0	77	STREET SIGNALS/CLAMP REPAIRS		0	548	22	0	0
SUB-TOTAL BUILDING FEES		10,004	32,121	24,724	34,014	57,549	PETER BAG SALES		285	40	0	0	0
GENERAL GOVERNMENT							SIGNAL MAINT. - STATE		7,775	11,404	5,289	8,249	7,428
CONTRACTS		245	209	262	432	374	SALE OF PARKING STALLS		0	0	1,200	0	0
SUB-ADMINISTRATION		80,308	125,827	45,659	4,992	0	VEED CUTTING		50	0	0	0	0
SUPPLY MISCELLANEOUS CHARGES		304	264	113	0	0	MISCELLANEOUS (243.15)		24,900	0	0	0	0
BILLINGS TO DEPARTMENTS		110,482	30,987	12,091	114,073	114,453	SUB-TOTAL HIGH & STREETS		64,615	15,901	6,511	8,249	7,428
SUBDIVISION REVIEW PLANS		0	0	0	0	0	CULTURE - RECREATION						
SUB-TOTAL GENERAL GOVERNMENT		191,725	157,417	57,925	124,447	114,827	UNIVERSITY REVENUES - BUDGET		9,724	15,534	19,772	21,498	22,720
PLANNING AND ZONING CHARGES							VARIABLE REVENUES - ROOMING HOEL		54,140	49,144	85,171	77,549	91,408
FLOOD PLAN REVIEW		0	0	0	73	73	RELOCATED HOEL		275	125	0	0	0
PLAN REVIEW FEES		0	0	0	0	70	LIBRARY BOOK SALES		591	1,298	1,304	811	632
BOARD OF ADJUSTMENT FEES		1,085	3,100	5,125	4,215	4,825	LIBRARY SERVICES		0	44	150	136	310
CONDITIONAL USE		0	0	0	0	0	SHOOTING ALPH FEES		0	54	0	0	0
ZONE MAP CHANGE		0	0	0	0	0	RECREATION COMPLET FEES		0	53	25	13	11
ZONE CODE AMENDMENTS		0	0	0	0	0	BARBER PLAT FEES		0	0	0	0	760
PLANNING DEPARTMENT STUDIES		150	0	0	0	0	ICE SKATING LESSONS		0	0	0	0	776
PLANNED UNIT DEVELOPMENTS		0	0	0	0	0	FACILITIES & EQUIPMENT		0	0	0	0	148
LANDSCAPING/PAVING REVIEW		0	0	0	0	0	TEE BALL		0	0	0	0	1075
SUB-TOTAL PLANNING & ZONING		2,035	3,100	5,125	4,290	4,970	HAY CAMP		0	0	0	0	1361
PUBLIC SAFETY - POLICE							TENNIS LESSONS		0	0	0	0	925
SPECIAL POLICE SERVICES		5,870	1,360	2,520	2,510	1,581	SUB-TOTAL CULTURE & RECREATION		64,730	66,272	110,422	100,837	121,476
TOWING FEES		40	1,175	711	48	116	ANNUAL CONTROL & SHELTER FEES		2,434	2,436	2,814	4,841	5,255
ACCIDENT REPORT FILING FEES		577	371	492	717	411	CEMETERY						
POLICE REPORT FEES		221	453	462	284	375	SALES OF PLOTS		12,550	9,525	11,637	7,748	16,199
SUB-TOTAL POLICE		6,771	3,209	4,245	3,556	2,703	GRAVE PERMIT FEES		16,015	9,890	10,265	9,440	10,445
CEMETERY							MOUNTAIN SETTING FEES		41	54	49	111	436
SALES OF PLOTS		0	0	0	0	0	LONGBRING FEES		110	203	91	28	146
GRAVE PERMIT FEES		0	0	0	0	0	CEMETERY INSPECTION FINE		27,165	2,405	504	0	0
LONGBRING FEES		0	0	0	0	0	CONTRACT PURCHASES		0	0	0	0	0
CEMETERY INSPECTION FINE		0	0	0	0	0	RENTS AND LEASES		1,877	2,424	1,760	1,775	2,333
SUB-TOTAL CEMETERY		0	0	0	0	0	SUB-TOTAL CEMETERY		31,186	24,113	24,308	19,123	29,560
TOTAL FEES		409,475	312,659	242,284	307,418	351,744							

TABLE 15

The Intergovernmental Revenue History of Bozeman

BOZEMAN INTERGOVERNMENTAL	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
FEDERAL GRANTS					
CRIME CONTROL	0	24,055	0	0	0
EMERGENCY EMPLOYMENT	0	0	499	0	0
REVENUE SHARING	297,280	139,982	285,624	324,091	326,753
FEDERATION OF LIBRARIES	0	0	0	0	10,950
B. O. R.	9,263	0	0	0	0
SUB-TOTAL FEDERAL GRANTS	306,543	164,037	286,123	324,091	337,703
COUNTY SHARED REVENUE					
GALLATIN COUNTY LIBRARY	11,516	20,231	36,957	41,501	23,575
COUNTY REVENUE SHARING	0	0	0	0	6,500
SUB-TOTAL COUNTY SHARED REVENUE	11,516	20,231	36,957	41,501	30,075
STATE SHARED REVENUES					
LIQUOR TAX APPORTIONMENT	43,507	41,413	37,208	62,753	40,424
BEER TAX APPORTIONMENT	56,014	70,143	60,903	60,921	59,581
GAS TAX APPORTIONMENT	161,138	160,549	178,012	168,165	334,696
WINE TAX APPORTIONMENT	4,353	2,420	3,283	3,689	3,700
DEPT OF HWY FLEET FEES	0	0	0	595	480
STATE BLOCK GRANT	0	0	0	0	26,826
CORPORATION LICENSE TAX	0	0	0	0	8,840
SUB-TOTAL STATE SHARED REVENUES	265,012	274,525	279,406	296,123	474,547
TOTAL INTERGOVERNMENTAL	583,071	458,793	602,486	661,715	842,325

TABLE 16
The Fine Revenue History of Bozeman

BOZEMAN FINES	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
LIBRARY FINES	2,358	2,554	3,739	5,345	5,778
COURT FINES	134,919	180,000	219,024	285,539	276,016
TOTAL FINES	137,277	182,554	222,763	290,884	281,796

TABLE 17

The Miscellaneous Revenue History of Bozeman

BOZEMAN MISCELLANEOUS	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
INTEREST REVENUE	106,618	414,361	379,139	32,785	111,427
RENTS AND ROYALTIES	2,568	5,362	3,125	4,360	1,850
SENIOR CITIZEN CENTER RENTAL	175	500	938	1,143	2,247
SALES OF FIXED ASSETS	176	15,173	1,319	4,247	300
COMPENSATION-LOSS OF FIX. ASS.	441	1,094	1,241	3,004	831
SALES OF RAW MATERIALS	79	228	0	169	466
SALE OF UNCLAIMED PROPERTY	1,371	2,547	0	1,403	1,273
DONATIONS - LIBRARY	11,675	1,267	8,041	1,710	0
DONATIONS - OTHER	0	90	3,766	8,762	125
REFUNDS AND REIMBURSEMENTS	-744	11,952	25,493	8,233	3,404
INSURANCE RECOVERIES	1,023	1,305	5,332	0	0
IN LIEU OF PARKLAND DONATION	0	0	13,680	0	0
LEGAL DEFENSE	0	0	387	0	0
TRANSFERS FROM OTHER FUNDS	102,911	65,016	725	88,313	88,042
TOTAL MISCELLANEOUS	226,293	518,895	443,186	154,129	209,965

TABLE 18

Helena's Interfund Transfers FY83 - FY85

	Actual 1983	Actual 1984	Proposed 1985
<u>INTERFUND OPERATING TRANSFER</u>			
Street Light District #700	\$ 26,826	\$ -0-	\$ 32,429
PERS Fund	67,936	90,124	96,893
MPS Fund	111,459	130,013	140,551
Sprinkling Fund	220,421	-0-	-0-
Street Maint. Dist.	-0-	367,213	467,621
Gas Tax	29,950	98,231	98,000
Federal Revenue Sharing	18,895	-0-	-0-
Social Services Fund 6030	6,343	-0-	-0-
Shop	-0-	-0-	1,000
Parking	-0-	2,500	-0-
Telephone Revolving Fund	-0-	6,723	-0-
Dust Control Districts	-0-	3,645	11,509
Rehab Loan	-0-	2,030	6,723
Subtotal	\$ 481,830	\$ 700,479	\$ 854,722

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