

# 2011 Montana Legislative Preview

by Shannon Furniss

## The Budget and the Economy are First on the Agenda, Senators Say

The 2011 Montana legislative session promises to be particularly challenging, with changes in leadership and tough budget decisions to be made. Shortly after the November election, two Montana state senators – a Republican and a Democrat – spoke at a City Club Missoula forum on important issues that will be on the legislative agenda. While they disagreed on some fundamental issues, Republican Sen. Jim Shockley and Democratic Sen. Dave Wanzon agreed that the budget and the economy will be the overriding concern of the upcoming Legislature and that education and the Health and Human Services department are likely to face sizable cuts.

The forum was structured in a Q & A format, with City Club Missoula President Geoff Badenoch posing several questions that both senators were to answer and then opening it up to forum attendees for questions. Though edited for clarity, the following Q & A includes the major points addressed at the forum. Not all questions were included in this article because of space constraints.

**Q. (City Club):** The Montana election results were tipped to the side of Republican candidates, and the majority in the House will be Republican. The Senate still remains fairly equal. Leadership for winning the elections is a benefit, but it's also a burden because the public expects those in leadership to get things done. What are the implications for change in leadership in each house? What can we expect in terms of leadership?

**A. Sen. Shockley:** Sen. Wanzenreid and I are from the old school – we're congenial on a personal level and respectful on a political level. One of the main reasons the Republican Party did so well is because the people in Montana were mad at the national government. I think we would have won anyway – I just don't think it would have been a blowout.

We now have 68 representatives in the House. The last time Republicans had such big numbers was back in the mid-'90s. What this will mean is that there won't be the gridlock in the House. I think the last three sessions it's been 50-50 twice and 51-49 the other time. This is a recipe for not getting anything done. When you're that close, things can get very vicious. When people on both sides don't have the experience working with each other, things just don't get done. With 68 to 32, there won't be as much gridlock. This will put the Republican Party in the position to control the Legislature.

However, we don't have a veto – the governor does. He can veto a whole bill, or he can veto a line in an appropriations bill. The important part is he doesn't have line-item insert. He can take money out, but he can't put money in. This time there's going to be no money. It's the position of Legislative Services that we're spending \$20 million more per month than we're taking in. I know the administration's position is somewhat different. I suspect Legislative Services is more accurate. It means we'll be in the hole. We'll have to appropriate money for the current fiscal year because we don't have enough money to finish the year, and then we'll have to project what it's going to be in the future and fund that.

**A. Sen Wanzenreid:** I marvel about a system that allows us to go through the type of transition we just went through. Just think two years ago, there was a transition, and it was peaceful.

What happened on November 2? The Democrats got whacked. Evidently there's talk about a clear mandate in the Legislature. We had a clear mandate two years ago. Or did we? By the way, I'm speaking for myself, not for the caucus, the party, or certainly not the governor. I'm giving you the perspective of having prepared seven other times to go to Helena. Now there are different majorities and different balances of power. One thing I can tell you is that most of the work that gets done gets done through collaboration and working together. Far too often in Helena, I think there's a tendency to focus on differences. Accentuate the differences, and things don't get done. When you look at an area to agree on and agree to get that done, you're doing the people's work. Then once that's done, move on to the next. But at the end of the day, the most important thing is using that power as a citizen legislature to do your work. Finding common ground is a key. Working in the middle is too often ignored by large majorities. And we have to do that. Governing is tough business.

There's going to be talk in this session about social and environmental issues, but the budget and economy will be the overriding concern of the Legislature - make no mistake about it. We will focus on the budget. Is there a revenue shortfall? Yes. How big is it? Well, that's going to be part of the debate. We're going to find out how big it is. The most important thing is that we need to find common ground to set priorities and values in the budget. That's the statement of who we are as Montanans. That's a subject that we need to focus on day in and day out. It's easy to say we have a \$200 million shortfall or a \$100 million shortfall, and we're going to have to cut our way out of it. Everything should be on the table – not for my benefit but for all of you: people afflicted with mental illnesses, the developmentally disabled, students, kids, people out of work. They need to be on our minds. We



**Dave Wanzenried (D)** is a current Montana state senator elected in 2006 representing the 49th District in Missoula. He previously served two terms in the Montana House of Representatives from District 92, which includes parts of Missoula and Mineral counties (1990-92 and 2000-

2004). He serves as vice chair of the Senate Natural Resources and Energy Committee and serves on the Senate Committee on Committees, Judiciary, and Finance Committees. He lives in Missoula.



**Jim Shockley (R)** is a current Montana state senator elected in 2004 representing the 45th District in Ravalli County. He previously served three terms in the Montana House of Representatives from District 89, which is in Ravalli County. He serves as chair of both

the Ethics and the State Administration Committees and as vice chair of the Judiciary Committee. He is also a member of the Fish and Game Committee. He and his wife, Marilee, live in Victor.

“The intimacy of Montana politics is that we can talk and listen to each other if we choose to.”

need to make decisions that reflect their priorities and their values. There is a lot of animosity reflected in the vote last week. We need to put that behind us and find the common thread, which is to make good decisions that will last for more than two years. Continue to make investments in education, and make them accountable for money they receive. If you think education

is expensive, try the alternative. If you think taking care of people through Medicaid is expensive, try the alternative. The implications from last week are that the majority in the House can do what it wants to do. In the Senate, it's usually more collaborative and more cooperative – a smaller body. As Sen. Shockley said, he and I are friends. The intimacy of Montana politics is that we can talk and listen to each other if we choose to.

**Q. (City Club):** Our Legislature meets every other year, but the process of governing doesn't take a year or two off. The Legislature has interim committees that work when the Legislature isn't in session, and they help develop legislative initiatives. What are some of the things that are coming out of the legislative interim committees, and what are some of the specific items that will be on the legislative agenda?

**A. Sen. Wanzenreid:** I'm going to speak about the budget. During every session, there is always this expression, "Oh, we don't have enough money. I'd like to do that, but we just don't have money." You know what we don't have enough of during this session – time. Time to understand the consequences of decisions we make. So we learn a lot during the interim.

One of the things we haven't done a very good job of (until this interim) is understanding what happens when we cut the budget. Usually about the third week of March we get a list that says we don't have enough money and we're going to have to cut around \$20 million to \$30 million. No explanation of where it came from. No explanation of how it got there or the implications of what these cuts represent. One of the things we did during this interim is to examine the consequences of those cuts in Health and Human Services and education. We have ongoing programs funded with one-time-only money to the tune of \$100 million in education and Health and Human Services. Unless we backfill that with other money, guess what? On July 1, that goes away.

In other sessions, we wouldn't have a clue what that means. This time, we will. We've moved that process up a full 16 to 17 months so that my colleagues can go online – those that got newly elected and said they were going to cut the budget – and see that budget cut list along with the consequences. You know that old expression, "There's no

free lunch?" It usually ends up in a cost shift. We can cut the university system budget. We can reduce the quality of instruction offered and raise tuition at the same time so that students end up paying more for less. We can cut K-12 funding and probably raise property taxes and reduce the quality of instruction there and wonder how we're going to be competitive [in the 21<sup>st</sup> century]. What about Health and Human Services? We can cut those budgets. We can push those people into the hospital emergency rooms and drive up those costs. You and I will end up paying more for insurance, and the cost of health care goes up with it. We have to be careful to understand that we don't have enough money, but there's a consequence of making cuts. The Legislature needs to set values and priorities based on that information – not across-the-board cuts. That's the easy way – cut it 5 percent or 10 percent and let the executive figure it out. My guess is there are going to be some significant cuts in Health and Human Services. The question is, "What happens to those people?" We have information for the first time, and we need to use it – in education and Health and Human Services especially.

**A. Sen. Shockley:** I've talked to people on both sides of the aisle that agree with what Sen. Wanzenreid just said. We shouldn't make cuts as a percentage. That's just easy. This time, some programs should receive more money and some should just go away. This is the conservative Republican standpoint. What the agencies want to do is keep a program alive just long enough to the next time. I'm for doing away with whole programs, and when we have enough money left, funding good programs to greater extents.

I'm on the Law and Justice interim committee. We have several bills dealing with DUI and various aspects of it. I have a bill that will address two problems: DUI alcohol and DUI driving impaired from other substances. Law enforcement believes that half the people driving impaired are impaired with something other than alcohol. This has been a movement in the Legislature for years that if you don't take the breathalyzer test when the policeman pulls you over, and he has reason to believe you're impaired, then you go to jail. You will be punished for exerting your rights under the Constitution not to provide evidence against yourself. It's a 4<sup>th</sup> and 5<sup>th</sup> amendment issue. I've always opposed it. But I have a compromise, and I'm here to help the policemen.

DUIs don't usually occur at 3:00 in the afternoon; they occur between 10:00 at night and 3:00 in the morning. My bill would establish that during non-working hours (weekdays from 5 p.m. to 8 a.m. and weekends) when a person is drunk, has bloodshot eyes, is unable to walk, and refuses to do the breathalyzer, the policeman can call the judge and request that he take them to the hospital to draw some blood. When you take blood out of someone, it's considered a search. Right now, it's lawful for a policeman to get a search warrant over the radio. It's there, but is not used very often – only in a



Photo by Jackie Corday

## City Club Missoula: Civil Conversation Key to Successful Business Community

Two politicians with very different views discussing pressing community issues, followed by lively – yet civil – conversation, makes for an informative, engaging City Club Missoula forum.

Sen. Wanzenreid's theory about Montana politics that "we can talk and listen to each other if we choose to" goes along with City Club's theory that listening to different points of view and discussing them in a non-partisan environment is the most effective way of interacting and solving problems.

City Club Missoula's mission is to "bring together people to inform and inspire citizens on issues vital to the Missoula area community through public forums that encourage the discussion of new ideas and the free exchange of thought."

City Club Missoula President Geoff Badenoch views the club's monthly forums featuring a variety of speakers (most recently with the new University of Montana President Royce Engstrom) as an opportunity for people to learn about issues and discuss them in a friendly manner. After each speaker, participants are encouraged to discuss their thoughts and ideas around the tables in the room and pose questions to the speaker.

"If there is a contentious issue in the community, it is in our best interest to discuss it calmly instead of forming PACS and fighting," Badenoch says. "Diplomacy is always better than war."

Out-talking or out-shouting someone is not the way to get business done, Badenoch says. The alternative is to listen to someone's point of view, hear the arguments and evidence, and then try to compromise.

While some City Clubs in cities such as Cleveland, Denver, and Portland have been around since the early 1900s, Missoula's club began in 2004 and is the only one in Montana. Badenoch hopes that some day there will be a network of City Clubs throughout the state.

City Club Portland was among the first clubs formed in 1916 with the idea that "neither politics nor money were to suppress ideas and ability. Character, intelligence, training, civic-mindedness, and a desire to help the community were wanted and fostered."

Furthermore, "no mossbacks or drones" were invited to join, according to the lawyer who became the club's first secretary.

Some of the more long-standing and prestigious City Clubs have their own buildings and staff. City Club Missoula is a bit more informal, holding forums in public meeting places and counting on volunteers and the board of directors to promote the club's efforts.

In the past six years, City Club Missoula has featured speakers from non-profits, government organizations, and businesses. Some of the more recent forum speakers include: UM President Royce Engstrom; former Congresswoman Pat Schroeder; Sen. Jon Tester; Commissioner of Higher Education Sheila Stearns; UM Professor Steve Running; Justice of the Peace Karen Orzech; and United Way of Missoula CEO Susan Hay Patrick.

One of City Club Missoula's most significant accomplishments, according to Badenoch, has been starting the youth program, which allows high school students from the four Missoula-area high schools to attend and participate in the monthly forums. To keep students involved, City Club has created a student ambassador position on the board and elected Lily Clarke, a senior at Hellgate High School.

City Club Missoula demonstrates to students and future leaders that civilized individuals can listen and talk to each other and do business together, Badenoch said.

For more information on City Club Missoula, call 406.541.CITY or go to [www.cityclubmissoula.org](http://www.cityclubmissoula.org).

real emergency. When the officer calls about getting a blood test, the judge will say, "That seems like probable cause and reasonable suspicion." Once the warrant is given, it just has to be confirmed later in writing. And that's exactly what would happen. I think this will aid law enforcement, and a large part of the law enforcement community thinks it will help.

**Q. (City Club):** The Montana Constitution grants the people of Montana a wide opportunity to participate in government. When the Legislature meets every other year they conduct committee hearings, and 150 people who comprise the Legislature get a lot of input from citizens. As a veteran legislator, what is the most effective way for people to interact and express their views to a legislator?

**A. Sen. Shockley:** I prefer a phone call so that we can discuss it. I had a call yesterday from a lady that had a problem. ... I told her to find out who her representative is and discuss it with her representative. Because I deal with law and justice matters, I can give her some advice on a bill. I can't pick up a bill for everyone who calls me on the telephone, but I can give advice to people if it's an area I have some expertise in.

**Q. Sen. Wanzenreid:** The best way to interact is like this. Call us. That's our job. We work for you. Individual relationships matter. I represent 19,000 people. My colleagues in California represent the population of Montana – individually. Montana is intimate.

E-mails work great during the session. During the last two sessions we argued about expenditures. Guess how much time we spent debating revenue? Zero. There is the problem. Don't let us adjourn without a robust debate about revenue this time. The expenditure side of the equation we argue about all the time. We wouldn't have had the revenue shortfall if we would have looked at revenues and had debate about it. All of you are better served by that. Make no mistake about it. The quality of the session is not necessarily just

the outcome. The process in which you can participate any way you choose is just as important. The information that comes to us reflects your values and your priorities. You should expect us to reflect that in the outcome, and we should be able to articulate it. Contact us now and remain in contact.



## Questions from Forum Attendees

**Q. (for Sen. Shockley):** Can you give us some foreshadowing about important issues in the legislative session?

**A. Sen. Shockley:** My party will be looking closely at the Department of Health and Human Services. Another area will be education. Kindergarten is going to be [a topic of conversation].\* And that's probably going to be the biggest battle.

*\*The 2007 Legislature, in its May special session, appropriated \$28 million in funds to help Montana school districts that choose to offer full-time kindergarten, along with \$10 million in one-time-only startup funds.*

**Q. (for both senators):** Our question is about Sen. Wanzenreid's suggestion that we should look at this as a revenue crisis instead of a budget crisis. What should be talked about and on the table for a revenue-generating option especially now that the stimulus money is going away?

**A. Sen. Wanzenreid:** Last winter when it was clear that we were going to have a revenue imbalance with expenditures, the Legislative Finance Committee decided to do something about it and appointed subcommittees to look at different areas: corrections, education, and health care, principally, in terms of cuts. The argument is that everything will be on the table including revenue. We spent 95 percent of the time talking about cuts and 5 percent talking about revenue sources. The Republicans said, "We'll look at revenues after the election." Well, it's after the election, and I haven't heard a lot of people saying we need to look for additional revenue. If the Legislature convenes and we take the governor's budget and he does not propose to fill back the current level services, there will be a cut of around \$100 million – principally in education and Health and Human Services. He tells us he's going to provide a balanced budget; I take him at his word. But if he doesn't fund that, do we just jettison \$100 million of services in education and Health and Human Services, or do we do something about it? The "do something about it" means we have to find revenue for it. If there's no will to do that in terms of the majority party, it isn't going to happen. The governor can't create revenue; we have to create the sources of revenue for him. Right now, there aren't a lot of people who got elected that feel we have a revenue problem. They feel we have an expenditure problem.

**A. Sen. Shockley:** My party and I feel that we have too big a spending problem. We don't have a revenue problem. If we cut expenditures, we don't need to raise revenue. Pay the bills, and it will work itself out. If we pay the bills, the economy will work it out. If you cut taxes, not generally, but specifically business equipment taxes, it would help the economy.

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**Sen. Wanzenreid followup:** In the past when business equipment taxes have been reduced, the Legislature has always appropriated money to keep the school districts and local governments whole. That costs the state money. We don't have that money. If we make the cut in business equipment taxes without the reimbursements, there's going to be a significant reduction, especially in K-12 and in the university system.

**Q. Sen Wanzenreid:** You mentioned the \$100 million that is earmarked to be cut from the budget, basically in Health and Human Services and education. There's a concern that human services organizations like ours (feeding hungry people) are going to be pitted against education and other human services organizations. Sen. Shockley talked about looking at programs that are performing well and cutting those that are not performing well. If that comes to be the case, who is going to determine which programs are performing well, which aren't, and who is going to be making those cuts?

**A. Sen. Wanzenreid:** You hear that before every session, “We're going to get rid of the programs that don't work.” Who makes the decisions? The appropriations subcommittees – most of which have the majority vote with the Republican Party this time. The exception historically has been the Human Services Subcommittee, which has an even number of Republicans and Democrats. That committee always collaborates and finds that common ground. If \$100 million goes away and people say we should cut things that don't work, how about funding things that are not adequately funded? For example, the state does not provide very many direct services in health care – mental health and developmental disabilities being a prime example. If we contract that out to the private sector, private nonprofits, a private model, we have starved them for the last 20 years. Instead of having people in institutions, we put them out in the community and say, “You can be better cared for there, and we'll help pay for it.” In Great Falls, they cannot compete

to hire people to be direct caregivers of the developmentally disabled. At the humane society, the people who are cleaning dog kennels are making more per hour than those direct care providers can. We don't do that by choice – they've had to cut back and cut back and cut back. Some providers in this state are going to start shutting down access to mental health and developmental disabilities services and other services such as nursing homes.

Ask yourself, “What's going to happen to the people receiving the services?” They don't go away because we have, according to some people, an expenditure problem. In this environment right now those numbers are escalating rapidly. We have higher Medicaid caseloads than ever before. Those people don't go away. The kind of suffering we're talking about – that's out there, that's real – will intensify. I think that we, as Montanans, feel an obligation to take care of our less fortunate neighbors – people who are old and sick and young and sick. The measure of this session is going to be the values and priorities that come out of it. □

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