

**The  
Custer County  
Study Commission  
offers this  
Tentative Report  
and  
Proposed Form  
of  
County Government**

TABLE OF CONTENTS

Letter to the Citizens of Custer County .....	1
Summary of Recommendations .....	3
Proposed Form of Government .....	5
Comparison .....	9
Statutory Basis for Elected County Officials .....	10
Certificate of Proposed Form of Government .....	11
Existing Form of Government .....	12
Statutory Basis for Elected County Officials .....	16
Certificate of Existing Form of Government .....	17
Official Ballot .....	18
Certificate of Official Ballot .....	20
Certificate of Election Date .....	21

TO THE CITIZENS OF CUSTER COUNTY:

We, the members of the Custer County Study Commission, offer this tentative report of our findings and recommendations for your consideration.

As defined by the Montana State Constitution, Article 11, Section 9, it was our responsibility to "study the form and power of county government and the existing procedures for delivery of government services comparing them with other forms available under the laws of the State of Montana."

To complete the study, we sought advice and information from as many sources as possible through conferences with local government officials, meetings with community organizations and individual citizens, holding public hearings, and through the use of newspaper articles and surveys. In addition to newspaper ads, we enclosed notice of a public meeting in individual tax statements urging people to provide their opinions, ideas, and recommendations. The Commissioners availed themselves to public opinions through hearings, open meetings, weekday office hours, and personal telephones.

The Commission has considered the input from the respondents. The Commission's recommendations reflect that input and, thus, the Study Commission presents, for your consideration, an alternative form of government (the Commission form), three (3) sub-options, and one (1) recommendation to that alternative form. The alternative form (which is identical in substance to our present form) must be formally adopted before any changes or sub-options can be considered.

As confusing as it may sound, the Commission form as an alternative form must be formally adopted because the voters of Custer

County have never formally adopted (approved) any form of government since the county was created in 1877. Therefore, we have been governed by the requirements of the Montana State Constitution. It is important that our County Commission form of government be formally adopted by the voters so that changes (amendments) may be considered both now and in the future.

## SUMMARY OF RECOMMENDATIONS

An in-depth study of the government of Custer County over the past two years has yielded the following recommendations from the Custer County Study Commission:

That the voters of Custer County adopt, effective November 4, 1986, an alternative form of government defined by state statute 7-3-400 as the Commission Form of government.

A Commission of three (3) members shall be elected for overlapping four (4) year terms of office.

### I. SUB-OPTIONS FOR ALTERNATE FORM OF GOVERNMENT

#### COMMISSION FORM

##### A. COMMISSIONER DISTRICT

The Study Commission found that roads were the primary reason for commissioner districts. The commissioner in each district was responsible for the development and maintenance of roads. Motorized travel led to a network of state and federal highways. The new roads required sophisticated expensive equipment that was used county-wide. With modern highways and centralized equipment the primary purpose of commissioner districts disappeared.

The present districts each include a portion of the county and a part of the major population center, Miles City. It is, therefore, recommended that the commissioner district be abolished and commissioners be nominated and elected at large as are other county officials.

## B. NONPARTISAN ELECTIONS

The issue of partisan versus nonpartisan local elections is controversial. As with most political questions, a persuasive argument can be launched on either side. Research has shown that some local citizens refuse to become candidates in partisan elections because of a reluctance of being identified with party politics.

The Study Commissions recommends that all elections at the county level be on a nonpartisan basis. This should provide a broader base of qualified candidates who will run for County offices, thereby giving the voters more direct choice in primary elections.

## C. PART-TIME ELECTED COMMISSION

The Study Commission recommends that the Commission consist of five (5) members elected for overlapping four (4) year terms of office. The five (5) members will work on a part-time/half-time basis and will be compensated at an annual salary of fifty percent (50%) of the annual salary established in the Montana statute 7-4-2503 for the Clerk and Recorder plus \$1,000.00 (One thousand dollars).

## II. RECOMMENDATION OF LAW ENFORCEMENT SERVICE CONSOLIDATION

The law enforcement for Custer County and its municipalities will be provided for through the consolidation of the services of the Custer County Sheriff's Department and the Police Department of the City of Miles City. The Chief law enforcement official, who is the Sheriff, shall be nominated and elected at large by the qualified electors of the county.

## PROPOSED FORM OF GOVERNMENT

The Commission form of government proposed as an alternate form would provide three (3) commissioners elected for overlapping four (4) year terms of office.

## RECOMMENDATIONS AND REASONS

Among the responsibilities of the Study Commission was that of recommending an alternative form of government to best meet the needs of the county. After considerable investigation, study, and research, the Custer County Study Commission has agreed to submit to the voters of the county the recommendation that they accept the Commission form of government with three (3) commissioners elected for four (4) year overlapping terms.

The Study Commission recommends the adoption of a form of government, identified as the Commission form of government. The existing Commission form of government has never been adopted by the voters. Therefore, the County is operating under the guidelines of the State Constitution. The adoption of the Commission form of government would provide the voters the flexibility of amending the form of government. The present form of government cannot be amended or changed until the voters adopt a form of government.

From results of a questionnaire, public hearing, and input from clubs and organizations in the county, the Study Commission gathered information regarding the present form of county government. From this information, along with direct input from present county officials, and the judgement of the County Study Commis-

sioners, the decision to propose this form of alternative government was reached.

#### OTHER RECOMMENDED CHANGES

##### I. ELIMINATION OF COMMISSIONER DISTRICTS

The Study Commission found that roads were a primary reason for commissioner districts. The commissioner in each district was responsible for the development and maintenance of roads. Motorized travel led to a network of state and federal highways. The new roads required sophisticated expensive equipment that was used county-wide. With modern highways and centralized equipment the primary purpose of commissioner districts disappeared.

The present districts each include a portion of the county and a part of the major population center, Miles City. It is, therefore, recommended that the commissioner districts be abolished and commissioners be nominated and elected at large as are other county officials. This proposal will eliminate the need to redistrict after each census and remove the cause for judicial review.

##### II. NON-PARTISAN ELECTIONS

Non-partisan elections are offered as a sub-option to the proposed Commission form of government. Members of the Study Commission agree there is a lack of clearly defined party issues involved in county elections. Historically, major political parties have not fielded a complete slate of candidates nor held the elected officials to strict party lines. The Study Commission believes that some potential candidates are not running for



office because of a desire to avoid specific political designation. This change will attract more candidates, and increase citizen participation in county government.

### III. A CHANGE FROM THREE (3) FULL-TIME COMMISSIONERS TO FIVE (5) PART-TIME/HALF-TIME COMMISSIONERS

The Study Commission believes that this sub-option will provide for increased representation for county residents without the increased costs of additional full-time commissioners. The Study Commissioners believe the proposed five-person (5) half-time commission will provide additional flexibility in meeting the challenges of county government.

Each commissioner will be elected to serve on a half-time basis and shall be compensated at an annual salary of fifty percent (50%) of the annual salary established in statute 7-4-2503 (Montana Code Annotated) for the Clerk and Recorder plus \$1000.00 (One thousand dollars).

### IV. CONSOLIDATION OF LAW ENFORCEMENT SERVICES

Miles City, the county seat, is the primary municipality in Custer County. Presently law enforcement is provided for the county residents residing within the city limits of Miles City by a city police department. Law enforcement for a resident residing outside of the city limits of Miles City is provided by a county Sheriff, an Under-sheriff and deputies. The level of cooperation between the Sherriff's Department and the Miles City Police Department has been commendable; however, there are areas of duplication of services and responsibilities.

Miles City is the population center of Custer County. All other areas are presently served by the Sheriff's Department. The Study Commission recommends the city and county law enforcement departments be consolidated for more efficient delivery of services.

The law enforcement within Custer County will be provided by the consolidation of the services of the Custer County Sheriff's Department and the Police Department of the City of Miles City. The chief law enforcement official, the Sheriff, shall be nominated and elected at large by the qualified electors of the County.

COMPARISON

	<u>PRESENT FORM OF GOVERNMENT</u>	<u>PROPOSED FORM OF GOVERNMENT</u>
<u>FORM</u>	Commission form merges legislative, administrative, and executive functions in Commission	Same as present form
<u>POWERS</u>	General Government - may exercise only specific powers and functions authorized by State	Same as present form
<u>SIZE OF GOVERNING BODY</u>	3 full-time Commissioners, nominated by district and elected at large	Same as present form
<u>TERM</u>	Six year overlapping terms	Four year overlapping terms
<u>PRESIDING OFFICER</u>	Chairman elected by Commission to a term to be established by ordinance	Same as present form
<u>COMMISSION SALARY</u>	Equal to salary set for Clerk and Recorder proscribed by statute 7-4-2107 + \$2,000.00	Same as present form
<u>OTHER SALARIES</u>	Officers salaries set by State, all others set by Commissioners	Same as present form
<u>BOOK-KEEPING FUNCTIONS</u>	Performed by Clerk & Recorder, dual set of financial books maintained by Treasurer	Same as present form
<u>ELECTED OFFICERS</u>	County Attorney, Sheriff/Coroner, Clerk of District Court, County Assessor, County Treasurer, Superintendent of Schools, Clerk & Recorder, Public Administrator	Same as present form
<u>COMPARISON OF PROPOSED SUB-OPTIONS &amp; RECOMMENDATIONS</u>		
	<u>PRESENT FORM OF GOVERNMENT</u>	<u>PROPOSED FORM OF GOVERNMENT</u>
<u>SUB-OPTION A</u>	Candidates are nominated from within district boundaries and elected at large	Candidates will be nominated and elected at large
<u>SUB-OPTION B</u>	Elections are partisan	Elections on the county level will be non-partisan
<u>SUB-OPTION C</u>	3 full-time commissioners Salaries are equal to Clerk & Recorder + \$2,000	5 part-time commissioners; salaries equal to 50% of Clerk & Recorder + \$1,000.
<u>RECOM-MENDATION #1</u>	Separation of Police Department of the City of Miles City and the Custer County Sheriff's Department	Consolidation of services of Custer County Sheriff's Department and the Police Department of the City of Miles City

STATUTORY BASIS FOR ELECTED COUNTY OFFICIAL GOVERNMENT

COMMISSION FORM. The commission form consists of an elected commission (which may also be called the council) and other elected officers as provided in this part. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by ordinance the executive and administrative powers and duties into departments headed by individual commissioners.

Commission form of government shall be governed by the following sections: (7-3-400. MCA)

- (a) 7-3-401;
- (b) 7-3-402;
- (c) 7-3-403;
- (d) 7-3-411;
- (e) 7-3-412(1);
- (f) 7-3-413(2);
- (g) 7-3-414(1);
- (h) 7-3-415(2);
- (i) 7-3-416(2);
- (j) 7-3-417(2);
- (k) 7-3-418;
- (l) 7-3-432(1);
- (m) 7-3-433(1);
- (n) 7-3-434(1);
- (o) 7-3-435(1);
- (p) 7-3-436(1);
- (q) 7-3-437(5);
- (r) 7-3-438(1);
- (s) 7-3-439(1);
- (t) 7-3-440(5);
- (u) 7-3-441(5);
- (v) 7-3-442(5);

CERTIFICATE OF PROPOSED FORM OF GOVERNMENT

We, the Study Commissioners of Custer County, do hereby certify that this is the Proposed form of Government approved by the Study Commissioners of Custer County.

In testimony whereof, we set our hands.

Done at Miles City, Montana, this 28<sup>th</sup> day of April, 1986.

LOCAL GOVERNMENT STUDY COMMISSION

Cherie Helland  
Chairman - Cherie Helland

Fred Anderson  
Fred Anderson

C.R. Bartholomew  
C.R. Bartholomew

Hugo Maggi  
Hugo Maggi

H.B. Viall  
H.B. Viall

(Seal)

Attest:

[Signature]  
Clerk and Recorder  
Custer County

EXISTING FORM OF GOVERNMENT

OF CUSTER COUNTY

I. POLICY-MAKING AND ADMINISTRATIVE STRUCTURE

The "traditional" form of county government has existed in Custer County since the creation of the county on February 15, 1877. It is basically the same government as described in the 1889 Constitution; in structure and powers it reflects its role as an administrative arm of the state government. It can best be described as a collection of eleven (11) somewhat autonomous administrative offices consisting of a commission of three (3) members and eight (8) elected officials. In addition many boards, commissions, and special districts operate within county government.

The three (3) member board of county commissioners is elected by the voters of the county for six (6) year overlapping terms; the term of one commissioner expires every two (2) years. Each commissioner must reside in the district he represents but commissioners are elected at large on a county-wide basis. Elections are partisan.

The commissioners serve as the executive branch of the county government and are responsible for the administration of the business affairs of the county as outlined in state law. They approve the county budget, levy taxes, issue bonds, enter into contracts, approve claims, and may buy, sell, and lease county property. They also have the responsibility to appoint members of boards and commissions and any department heads who are not elected.

Under the existing form of government, county commissioners have rather limited authority to supervise officials and employees of the county government. They can supervise those whom they appoint but the only control they have over departments headed by elected officials is through the county budget. They also have some authority over the salaries and number of deputies which the elected officials may have.

In addition to the three (3) commissioners, there are eight (8) other elected officials under the existing form of county government:

Sheriff/Coronor

County Attorney

Clerk and Recorder

County Superintendent of Schools

Public Administrator

Treasurer

Clerk of District Court

Assessor

The salaries as well as the powers and duties of these officials are determined by state law under the existing form, and each official is nearly independent from the supervision of the commissioners or from any other central administrative authority.

Numerous boards, commissions and special districts also operate in the county to administer services. These governmental bodies range in authority from advisory agencies which are subordinate to the commissioners, to those which operate independently of commission control. Members of these various boards may

be appointed by the county commissioners or in some cases are elected.

Members of the following boards are appointed by the County Commissioners:

Library Board	Rural Improvement Fund
Weed Control Board	County Tax Appeals Board
Cemetery Board	Fair Board
Airport Board	Custer County Water & Sewer District
City/County Planning Board	Civil Defense Director
Board of Health	Mosquito Control Board
Council on Aging	Sanitary Landfill Disposal District

The following special districts are administered by boards whose members are elected:

- Soil and Water Conservation District
- Irrigation District

## II. STRUCTURE FOR THE DELIVERY OF SERVICES

In some instances the county is acting as an agent of the state in providing "traditional" services such as elections, assessments, and property tax collections. Major county-provided services include:

- Elections

- Record Keeping Functions

- Financial Administration

- Maintenance of Roads and Bridges

- Agricultural and Rural Services (such as county fairs, Cooperative Extension Service, weed, insect, rodent and predator control programs, and rural fire protection).



Public Safety and Judicial Administration (such as law enforcement, county attorneys, and justice courts)

Social Services (such as welfare, health, hospitals and nursing homes, and ambulance services)

Parks

Planning and Development

Under the existing form of government some services are provided by elected county officials (for example, the Clerk and Recorder, Treasurer, Sheriff, etc.) while others such as libraries, airports, health services, and weed control are provided by the boards and special districts mentioned above. In some cases, these boards and districts provide services in instances in which the county, under existing state law, does not have the authority to provide directly.

### III. POWER AND AUTHORITY OF COUNTY GOVERNMENT

The existing form of government operates with limited interpretation which states that local governments have only those general powers specifically granted to them by the State Legislature. It further provides that if there is any doubt as to the existence of a local government power, the power is to be denied.

STATUTORY BASIS FOR ELECTED COUNTY OFFICIAL GOVERNMENT

(1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the elected county official form of government shall be governed by the following sections: (7-3-111. MCA)

- (a) 7-3-401;
- (b) 7-3-402;
- (c) 7-3-412(3);
- (d) 7-3-413(1);
- (e) 7-3-414(1);
- (f) 7-3-415(2);
- (g) 7-3-416(2);
- (h) 7-3-417(2);
- (i) 7-3-418;
- (j) 7-3-432(1);
- (k) 7-3-433(1);
- (l) 7-3-434(1);
- (m) 7-3-435(1);
- (n) 7-3-436(1);
- (o) 7-3-437(1);
- (p) 7-3-438(1);
- (q) 7-3-439(1);
- (r) 7-3-440(1);
- (s) 7-3-441(1);
- (t) 7-3-442(1) if the county has elected an auditor;
- (u) 7-3-442(6) if the county has not elected an auditor;

(2) This form has terms of 4 years for all elected officials except commissioners who are elected to 6-year terms. The commission consists of three members.

CERTIFICATE ESTABLISHING EXISTING FORM OF GOVERNMENT OF  
CUSTER COUNTY

We, the Study Commissioners of  
Custer County, do hereby certify  
that this is the Existing Form of  
Government of Custer County.

In testimony whereof, we set our  
hands.

Done at Miles City, Montana, this  
28<sup>th</sup> day of April, 1986.

LOCAL GOVERNMENT STUDY COMMISSION

Cherie Helland  
Chairman - Cherie Helland

Fred Anderson  
Fred Anderson

C.R. Bartholomew  
C.R. Bartholomew

Hugo Muggli  
Hugo Muggli

H.B. Viall  
H.B. Viall

(Seal)

Attest:

[Signature]  
Clerk and Recorder  
Custer County

INSTRUCTIONS TO VOTERS: Place an "X" in the boxes which express your preferences. The full text of the proposed form of government and of the present form of government are available at your polling place.

OFFICIAL BALLOT

BALLOT ON ALTERNATIVE FORM OF LOCAL GOVERNMENT

If the proposed form of government fails to receive a majority of the votes cast on the question, the sub-options also fail. If the proposed form is adopted, each sub-option requires only a plurality of votes cast on that sub-option for adoption.

PLEASE VOTE ON ALL ISSUES

1.

VOTE FOR ONE

For the adoption of the commission form of government proposed in the report of the Custer County Local Government Study Commission.

For the existing form of government.

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2.

VOTE FOR ONE

Sub-Option I, to be included in the alternate form of government if it is adopted.

For the abolishment of Commissioner districts with Commissioners nominated and elected at large.

For the existing method of nominating and electing Commissioners by district.

3.

VOTE FOR ONE

Sub-Option II, to be included in the alternate form of government, if it is adopted.

For the elimination of partisan elections for all Elected County offices.

For maintaining partisan elections for all elected County offices.

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4.

VOTE FOR ONE

Sub-Option III, to be included in the alternate form of government if it is adopted.

For five (5) Elected County Commissioners serving on a part-time basis.

For maintaining three (3) Full-time County Commissioners.

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5.

VOTE FOR ONE

Recommendation I, to be included in the alternative form of government if it is adopted.

For the consolidation of the Custer County Sheriff's Department and the Police Department of the City of Miles City.

For the maintenance of the Sheriff's Department separate from the Police Department of the City of Miles City. (Joint law enforcement is still being considered by the City Study Commission.)

CERTIFICATE ESTABLISHING THE OFFICIAL BALLOT NOVEMBER 4, 1986

We, the Study Commissioners of Custer County, do hereby certify that this is the official ballot approved by the Study Commissioners of Custer County.

In testimony whereof, we set our hands.

Done at Miles City, Montana, this 28<sup>th</sup> day of April, 1986.

LOCAL GOVERNMENT STUDY COMMISSION

Cherie Helland  
Chairman - Cherie Helland

Fred Anderson  
Fred Anderson

C.R. Bartholomew  
C.R. Bartholomew

Hugo Muggli  
Hugo Muggli

H.B. Viall  
H.B. Viall

(Seal)

Attest:

[Signature]  
Clerk and Recorder  
Custer County

CERTIFICATE ESTABLISHING THE DATE OF THE SPECIAL ELECTION AT WHICH THE ALTERNATE PLAN OF GOVERNMENT SHALL BE PRESENTED TO THE ELECTORS OF CUSTER COUNTY NOVEMBER 4, 1986

We, the Study Commissioners of Custer County, do hereby certify that this is the date set for the special election which the alternate plan of government shall be presented to the electors of Custer County.

In testimony whereof, we set our hands.

Done at Miles City, Montana, this 28<sup>th</sup> day of April, 1986.

LOCAL GOVERNMENT STUDY COMMISSION

Cherie Helland  
Chairman - Cherie Helland

Fred Anderson  
Fred Anderson

C.R. Bartholomew  
C.R. Bartholomew

Hugo Muggli  
Hugo Muggli

H.B. Viall  
H. B. Viall

(Seal)

Attest:

[Signature]  
Clerk and Recorder  
Custer County

