59th Legislature SJ0011.02

1	SENATE JOINT RESOLUTION NO. 11
2	INTRODUCED BY LAIBLE
3	
4	A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
5	MONTANA REQUESTING AN INTERIM STUDY TO LOOK AT THE SUBDIVISION REVIEW PROCESS; AND
6	REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 60TH LEGISLATURE.
7	
8	WHEREAS, the Montana Subdivision and Platting Act was enacted by the Montana Legislature in 1973
9	to address the overcrowding and public health and safety issues caused by the division of land for residential
10	purposes ; and
11	WHEREAS, the Act includes definitions of "division of land" and "subdivision" and also provides for
12	exemptions from subdivision review for certain divisions of land and subdivisions; and
13	WHEREAS, the Attorney General in three separate opinions has determined that the terms "division of
14	land" and "subdivision" apply to parcels that may be leased or rented and that the lease or rental also constitutes
15	a transfer of "possession" of the portion of the tract of land; and
16	WHEREAS, as a result of these opinions, unless specifically exempted from review, subdivision review
17	applies to any division of land in which title to the land is transferred or when possession of the parcel is
18	transferred through lease or rental; and
19	WHEREAS, a dispute has arisen over whether the building of a second home on a parcel of land
20	constitutes a subdivision subject to review; and
21	WHEREAS, House Joint Resolution No. 37 from the 2003 legislative session addressed only procedural
22	issues relating to subdivision review and did not address more substantive issues surrounding subdivision
23	review.
24	WHEREAS, SINCE ITS ENACTMENT, THE MONTANA LEGISLATURE HAS ADOPTED NUMEROUS AMENDMENTS TO
25	THE MONTANA SUBDIVISION AND PLATTING ACT AND YET PROCEDURAL AND SUBSTANTIVE ISSUES CONTINUE TO EMERGE;
26	<u>AND</u>
27	WHEREAS, ACTING UNDER HOUSE JOINT RESOLUTION NO. 37 FROM THE 2003 LEGISLATIVE SESSION, THE
28	EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE, WORKING WITH A BROAD-BASED GROUP OF AFFECTED AND
29	INTERESTED PARTIES, WAS ABLE TO REACH CONSENSUS REGARDING MANY SUBDIVISION REVIEW PROCESS ISSUES,
30	RESULTING IN THE INTRODUCTION OF SENATE BILL NO. 116 IN THE 2005 LEGISLATIVE SESSION; AND



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1	WHEREAS, MEMBERS OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE, AS WELL AS THE
2	CITIZENS INVOLVED IN THE INTERIM STUDY, REALIZE THAT MANY SUBSTANTIVE ISSUES REMAIN REGARDING SUBDIVISION
3	REVIEW AND ESPECIALLY ITS APPROPRIATE ROLE IN AND INTERPLAY WITH LOCAL LAND USE PLANNING AND REGULATION.
4	
5	NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
6	THE STATE OF MONTANA:
7	That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
8	section 5-5-217, MCA, or direct sufficient staff resources to REVIEW ALL RELEVANT PORTIONS OF THE MONTANA
9	SUBDIVISION AND PLATTING ACT AND THE ACT'S APPROPRIATE ROLE IN AND INTERPLAY WITH LOCAL GOVERNMENT LAND
10	USE PLANNING AND REGULATION, INCLUDING BUT NOT LIMITED TO:
11	(1) A review OF the definitions of "division of land" and "subdivision" in Title 76, chapter 3, MCA;
12	(2) \underline{A} review \underline{OF} the exemptions to subdivision review in Title 76, chapter 3, MCA; and
13	(3) THE NEED TO clarify the intent of the Legislature in determining when a subdivision review is required.
14	BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
15	presented to and reviewed by an appropriate committee designated by the Legislative Council.
16	BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
17	requirements, be concluded prior to September 15, 2006.
18	BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
19	comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.
20	- END -

