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## Local Government Interim Committee

### 66th Montana Legislature

#### SENATE MEMBERS

JASON ELLSWORTH  
JOHN ESP  
MARGARET (MARGIE) MACDONALD  
SUE MALEK

#### HOUSE MEMBERS

GERALDINE CUSTER  
MARY ANN DUNWELL  
DAVE FERN  
TYSON RUNNINGWOLF  
LOLA SHELDON-GALLOWAY  
PEGGY WEBB

#### COMMITTEE STAFF

TONI HENNEMAN, Research Analyst  
JULIE JOHNSON, Staff Attorney  
BRI NORDHAGEN, Secretary

# MINUTES LOG

July 23, 2019  
Room 102, Capitol Building  
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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#### **COMMITTEE MEMBERS PRESENT**

SEN. JOHN ESP  
SEN. MARGARET (MARGIE) MACDONALD  
SEN. SUE MALEK

REP. GERALDINE CUSTER  
REP. MARY ANN DUNWELL  
REP. DAVE FERN  
REP. TYSON RUNNINGWOLF  
REP. LOLA SHELDON-GALLOWAY  
REP. PEGGY WEBB

#### **COMMITTEE MEMBERS EXCUSED**

SEN. JASON ELLSWORTH  
REP. TYSON RUNNINGWOLF

#### **STAFF PRESENT**

TONI HENNEMAN, Research Analyst

JULIE JOHNSON, Staff Attorney  
BRI NORDHAGEN, Secretary

**VISITORS' LIST** ([Attachment 1](#))

**AGENDA** ([Attachment 2](#))

**COMMITTEE ACTIONS**

The Local Government Interim Committee:

- voted to allow proxies and to vote by majority.
- adopt the revised Rules, Procedures, and Guidelines for Interim Committees;
- elected Sen. Margie MacDonald as chair and Rep. Custer as vice chair;
- adopted a preliminary 2018-2020 interim work plan; and
- set the next meeting date for September 12 and adopted a tentative meeting schedule to be reviewed at the September meeting.

**CALL TO ORDER AND ROLL CALL**

09:33:22 Sen. Esp, called the meeting to order. ([Attachment 3](#))

**ADMINISTRATIVE MATTERS**

09:39:34 Ms. Henneman reviewed the administrative matters.

**Staff roles and responsibilities**

09:40:10 Ms. Henneman reviewed staff roles and responsibilities for the local government interim committee.

09:41:13 Rep. Sheldon-Galloway joined the meeting.

**Rules, Procedures, Guidelines for Interim Committees**

09:42:29 Ms. Henneman reviewed the Rules, Procedures, and Guidelines for interim committees. ([Exhibit 1](#))

**Proxy voting discussion**

09:48:17 Sen. Esp asked if anyone had objections to using proxies.

09:48:28 Rep. Custer stated if they use proxies they won't get the input of the legislator absent.

09:48:37 Rep. Fern stated there are legitimate reasons members can't attend and proxies may be necessary and acceptable.

09:49:09 Sen. MacDonald stated the importance of proxies as the interim is long and life events come up.

09:49:55 Sen. Esp stated the consensus was to allow proxies.

**Motion**

09:51:57 Sen. Esp moved to allow proxies.

**Vote**

9:51:57 The motion to allow proxies passed on a voice vote.

### **Voting process between chambers**

#### **Motion**

09:52:05 Sen. Esp moved the voting be by majority vote of the committee.

#### **Vote**

09:52:10 The motion to vote by majority of the committee passed on a voice vote.

#### **Adoption of Rules**

09:52:19 Ms. Henneman reviewed the adoption of the rules.

#### **Motion**

09:52:31 Sen. Esp moved to adopt the rules allowing proxies and voting by majority for the interim.

#### **Vote**

09:52:32 The motion to adopt the rules to allow proxies and vote by majority passed on a voice vote.

#### **Election of Chair**

09:52:52 Rep. Custer nominated Sen. MacDonald for Chair.

#### **Motion**

09:53:05 Sen. Esp moved to elect Sen. MacDonald as Chair.

#### **Vote**

09:53:11 The motion to elect Sen. MacDonald as Chair for the Local Government Interim Committee passed on a voice vote.

#### **Election of Vice Chair**

09:53:27 Rep. Dunwell nominated Rep. Custer for Vice Chair of the Local Government Interim Committee.

#### **Motion**

09:53:53 Sen. Esp moved to elect Rep. Custer as Vice Chair.

#### **Vote**

09:53:55 The motion to elect Rep. Custer as Vice Chair of the Local Government Interim Committee passed on a voice vote.

#### **Committee Budget**

09:54:35 Ms. Henneman reviewed the committee budget.

#### **Committee questions**

09:55:49 Rep. Fern asked whether the committee had done one or two day meetings in the past.

#### Committee discussion

09:57:33 Rep. Custer stated if they had a two day meeting that started in the afternoon it would save in cost, as legislators would only be compensated for one overnight.

#### Committee questions

09:59:05 Sen. MacDonald asked about the meeting summit in January, and how that affected this committee.

#### Committee website overview

10:00:51 Ms. Henneman reviewed the website.

#### Summary of 2019 Local Government Legislation

10:05:30 Ms. Henneman ([Exhibit 2](#))

#### Committee discussion

10:06:33 Sen. MacDonald stated the committee had technically moved 5 bills instead of 4 since SB19 was revised and introduced as SB302.

10:07:14 Sen. Esp SB 302 rules are currently being written.

10:07:41 Rep. Dunwell stated HB 166 which regarded posting of sample ballots inside each posting station, led to clutter/graffiti. A new bill was passed for election clerks with the change that a sample ballot would be placed in the main polling place.

10:09:32 BREAK

#### INTRODUCTION OF WORK PLAN

10:16:35 Ms. Henneman ([Exhibit 3](#))

#### History of committee and past topics

10:18:32 Ms. Henneman

#### LGIC assigned study: SJ 3

10:27:11 Ms. Henneman ([Exhibit 4](#))

#### Committee questions

10:29:19 Rep. Dunwell asked if the FTE time needed to add up to 1.0.

10:30:21 Sen. Malek asked if the report on sand and gravel programs was an oversight of this committee.

10:31:22 Sen. Malek asked a follow up question regarding if the committee could receive an informational packet about local government administration.

#### Committee discussion

10:32:18 Sen. MacDonald stated the committee received that information last interim.

10:32:44 Sen. Esp stated MACO and the Leagues of cities and towns probably had that information and could make it available to the committee.

#### Member topics

10:34:00 Ms. Henneman reviewed possible member topics and introduced Rep. Custer to

review hers.

10:34:43 Rep. Custer reviewed her suggested topic of "Entitlement Share".

#### Committee questions

10:36:15 Rep. Fern asked Rep. Custer if she saw part of this study as an answer to the question of how municipalities can keep up.  
10:38:11 Rep. Dunwell stated she did not want to see the entitlement share shrunk and it may dovetail into the second topic "Property Tax Review - Special District Focus".  
10:39:29 Sen. Esp asked Ms. Henneman if any other committees were looking at the entitlement share as well.

#### Member topics

10:41:37 Rep. Dunwell reviewed her suggested topic of "Property Tax Review - Special District Focus"

#### Committee discussion

10:42:34 Sen. Malek stated that taxes have shifted to local property owners.

#### Committee questions

10:45:20 Sen. Malek asked what public utilities different cities own and do they make money on said utilities.  
10:47:06 Rep. Fern stated in the House Tax Committee they put forward a bill that was a comprehensive study which might be able to answer some of the questions Sen. Malek posed.  
10:48:04 Sen. MacDonald stated that study did go through to the Revenue Committee.

#### Member topics

10:48:31 Ms. Henneman introduced the third topic "Affordable housing" suggested by Rep. Fern and Sen. MacDonald. ([Exhibit 5](#))

#### Committee discussion

10:49:12 Rep. Fern stated he had requests from the private sector, such as banking, to analyze the tools they have, looking at charitable organizations and tax advantages in respect for people donating land.  
10:50:26 Sen. Malek stated the committee might want to look into other innovative solutions cities are looking at such as tiny homes.

#### Member topics

10:51:05 Ms. Henneman reviewed topic 4 "Subdivision Review" suggested by Sen. Esp.

#### Committee discussion

10:51:24 Sen. Esp suggested the topic could be included in the septic study and stated he would like to look at the Department of Environmental Quality's process and science behind the decisions they make.

#### Member topics

10:53:24 Ms. Henneman reviewed topic 5 "Exempt divisions within a subdivision" suggested by Sen. Ellsworth.

#### **Member topics**

10:54:31 Ms. Henneman reviewed topic 6 "Regional Fire Authorities" suggested by Sen. MacDonald.

#### **Additional Agenda Items**

10:55:24 Ms. Henneman reviewed remaining agenda items starting with the "Pension System Review" suggested by Rep. Custer.

10:56:58 Ms. Henneman reviewed the second additional agenda item "Local Government Budgeting and Accounting" suggested by Sen. Esp.

10:57:29 Ms. Henneman reviewed the third additional agenda item "Liquor law review" suggested by Rep. Fern.

10:58:07 Ms. Henneman reviewed the fourth additional item "HJ 35 - Study of state and local taxes" suggested by Rep. Dunwell and Sen. MacDonald.

10:58:43 Ms. Henneman reviewed the fifth additional item "Barriers to voting for American Indians" suggested by Rep. Custer.

10:59:15 Ms. Henneman reviewed the sixth additional item " HB 715 - Legislative Finance Committee Study Bill" suggested by the Legislative Finance Committee (LFD).  
([Exhibit 6](#))

#### **Committee questions**

11:00:51 Rep. Dunwell asked Nick VanBrown, LFD Lead Fiscal Analyst, how the Revenue Committee's tax study will interface with the Finance Committee's look local government revenue and budgeting.

11:02:50 Sen. MacDonald asked Mr. VanBrown to preface his information with a larger overview for the committee of what his division is doing with HB 715.

11:04:21 Mr. VanBrown reviewed and handed out information on HB 715. ([Exhibit 7](#))  
([Exhibit 8](#))

#### **Committee questions**

11:08:50 Rep. Fern asked Mr. Brown if other states used a similar model to predict where they are heading.

11:10:44 Rep. Fern asked a follow up question for Mr. VanBrown asking if there were any staffing issues in their department on such a large task.

#### **Committee discussion**

11:11:22 Rep. Custer mentioned the Department of Administration had electronic information only back until 2007, and annual reports/budgets were sent from counties as a paper report since the beginning of the division.

#### **Public comment on the work plan and study assignments**

11:13:27 Barbara Woodbury, Woodbury Consulting.

11:17:55 Shannon Therriault, Director of Environmental Health at Missoula City County Health Department and representing the Montana Environmental Health Association.

11:19:50 Maureen Rude, MT Housing Coalition.

11:21:02 Michael O'Niel, Member of the MT Housing Coalition, MT Housing Authority.  
11:25:20 McKenna Sellers, Northern Planes Resource Center.

**Questions from the committee**

11:26:31 None

**MONTANA LEAGUE OF CITIES AND TOWNS & MONTANA ASSOCIATION OF COUNTIES  
REPRESENTATIVE REMARKS - KELLY LYNCH, DEPUTY DIRECTOR OF MLCT AND  
JASON RITTAL, DEPUTY DIRECTOR OF MACO**

11:26:42 Jason Rittal ([Exhibit 9](#))

11:32:32 Kelly Lynch ([Exhibit 10](#))

**Committee questions**

11:44:52 Rep. Dunwell asked Ms. Lynch how she see's the committee assuring the local government piece.

11:47:48 Sen. Esp asked Ms. Lynch if the planning statutes information was online.

11:48:16 Rep. Fern asked Mr. Rittal about pensions and unfunded liability in PERS and TRS and whether he had any thoughts on the long term implication of unfunded liabilities.

11:50:19 Rep. Sheldon-Galloway asked Ms. Lynch about an infrastructure coalition that doesn't answer to the city or county and how can the committee might study how to help them as they have no one to go to.

11:54:48 Rep. Sheldon-Galloway had a follow up question for Ms. Lynch asking if district statues done in 2005 used to report to the public service commissioners, and if the League of Cities and Towns came against that.

11:54:47 Sen. Malek stated private water companies do file with the Public Service Commission (PSC) to increase rates and the Consumer Council is involved every year.

11:55:13 Sen. Malek asked Ms. Lynch if she was aware the DNRC forest service, counties and cities were working together to form a commission to work with local property owners (particularly in the urban interface) to help them do remediation. Perhaps that could be used as a model as they are looking at solutions for special districts and possibly charging them more to help pay for the fire protection they need.

11:58:01 Sen. MacDonald stated to the committee that they will leaven their work with some basic education on this topic.

**PUBLIC COMMENT**

11:58:33 Daryll James, Executive Director for the Montana Infrastructure Coalition.

**LUNCH**

12:00:22

**Reconvened**

13:07:50 Sen. MacDonald called the meeting back to order.

**SJ 3: STUDY OF OPTIONAL SEPTIC DRAIN FIELDS**

13:08:06 Ms. Henneman reviewed SJ 3. (see [exhibit 4](#))

### **Background information**

13:08:15 Ms. Henneman ([Exhibit 11](#)) ([Exhibit 12](#))

### **Department of Environmental Quality - Tim Davis, Water Quality Division Administrator**

13:09:18 Mr. Davis presented his overview of his department.  
13:17:45 Sen. Esp asked Mr. Davis about trigger analysis who then passed the question to Rachel Clark, Supervisor of the subdivision section.  
13:21:03 Sen. Esp asked a follow up question to Mr. Davis if it's necessary based on science to run a trigger analysis which would cause an increase in cost for homeowners.  
13:22:27 Rep. Sheldon-Galloway asked Mr. Davis if there was anyone on his development and advisory council that represented this committee such as a representative or senator.  
13:23:10 Rep. Sheldon-Galloway asked a follow up question to Mr. Davis asking if the committee was invited to sit in on his council's meeting  
13:23:33 Rep. Dunwell asked Mr. Davis about the option of using an alternative septic system and what the purpose of taking a deeper dive at the different options was.

### **Comment from interested individuals and organizations**

13:25:16 Abigail St. Lawrence, MT Building Industry Association.  
13:27:17 Sam Sill, MT Association of Realtors.  
13:28:34 Ed Lieser, Representative of the Flathead Basin Commission.  
13:35:32 Mike Koopal, Whitefish Lake Institute.  
13:39:08 Tom Kallenbach, licensed engineer

### **Committee questions**

13:47:23 Rep. Dunwell asked Mr. Lieser, who then deferred the question to Mr. Davis, about aging septic systems, laws/rules/regulations.  
13:51:42 Rep. Dunwell asked a follow up question to Mr. Davis asking if a septic system had to fail before anything was done.  
13:53:28 Rep. Fern asked Mr. Davis about sewer maintenance districts.  
13:57:14 Sen. Esp asked Mr. Kallenbach if aging or failing septic systems and nutrients in the ground water are a major problem in most of Montana or if it is a local issue.

### **Work plan matrix - proposed study plan**

14:01:27 Ms. Henneman reviewed the work plan matrix and proposed study plan.

### **COMMITTEE WORK SESSION**

14:05:16 Rep. Fern stated he suggested the committee choose option A on the first issue, and to include some mitigation options and barriers in situations where there are problems.  
14:06:24 Sen. MacDonald proposed to put some of the items from option A, include Sen. Esp's proposal with subdivision reviews and also include the mitigation to total .25. None were opposed.  
14:07:36 Sen. MacDonald regarding the second issue asked Mr. VanBrown if there was



conflict tracking and what the implications were for local government in the entitlement share.

14:10:19 Rep. Dunwell asked Sen. MacDonald for clarification if the committee was combining the entitlement share and the property tax review special district focuses.

14:11:48 Sen. Esp proposed option B as they could complete most of the educational background there.

14:13:31 Rep. Fern stated fears ok the state taking entitlement money for other services, which should be included in the analysis.

14:14:36 Sen. Malek discussed tax cut levels.

14:16:13 Sen. Esp stated that at the state level when they cut business equipment they also backfilled counties the same amount that they cut.

14:17:33 Rep. Custer stated the committee was going to look at the public defender system.

14:18:41 Ms. Henneman suggested keeping issues 2 and 3 separate.

14:19:42 Sen. Malek stated not changing the basic legislation of entitlement share.

14:20:54 Sen. Esp discussed the entitlement share and allocation of funds and that extensive time should be spent on the issue.

14:22:02 Sen. MacDonald suggested monitoring what is being done in other committees, and devote .30 FTE total.

14:23:30 Rep. Fern stated holding everyone to tough standards but if the committee needs a little more time they will have some leftover available.

14:24:26 Ms. Henneman discussed choosing .25 FTE on entitlement share and .15 FTE on tax review. None opposed.

14:25:24 Sen. MacDonald discussed issue four and proposed .1 or .15 FTE.

14:25:54 Rep. Fern stated this was an ongoing issue, no more than .15 FTE.

14:26:37 Rep. Dunwell stated she would like to see transitioned individuals looked at in this study.

14:27:46 Sen. MacDonald stated the Law and Justice Committee has spent a lot of time on that issue.

14:29:05 Sen. MacDonald discussed the fifth issue of subdivision review.

14:29:34 Rep. Fern asked what .03 FTE meant.

14:29:52 Ms. Henneman explained the breakdown of FTE.

14:31:08 Rep. Fern appreciated the panel discussion and thinks that insight is valuable.

14:31:39 Sen. MacDonald stated .03 would be allotted for fire protection authorities.

14:32:39 Sen. MacDonald discussed SB 302 and suggests .01 FTE.

14:33:55 Rep. Fern stated the importance of the committee understanding liquor law issues.

14:35:04 Sen. Esp agrees with Rep. Fern, but stated leaving the liquor law issue to other committees would be appropriate.

14:35:20 Sen. Malek agrees with Sen. Esp in that this committee isn't the place to study liquor laws.

14:36:03 Sen. MacDonald requested Mr. Fern move that they keep liquor laws in the study plan.

14:36:07 Rep. Dunwell asked what .005 FTE meant in time.

#### **Motion**

14:37:29 Sen. Esp moved to not study liquor laws in the local government interim

committee.

**Vote**

14:37:51 Motion to not include liquor laws in this interim committee passed on a voice vote with Rep. Fern and Rep. Dunwell voting no.  
14:38:34 Sen. MacDonald discussed HJ35 and the appropriate FTE suggested.  
14:39:34 Rep. Dunwell stated pulling this issue into the .40 tax issue as it would be beneficial.  
14:41:10 Rep. Custer stated income tax wouldn't be included in the entitlement share.  
14:41:55 Rep. Dunwell discussed the numerous different taxes that inform local government budgeting.  
14:42:26 Sen. MacDonald discussed the sixth issue of barriers and mail in ballots.  
14:42:31 Rep. Custer stated if there wasn't enough time SAVA might be covering this issue as well.  
14:43:22 Sen. MacDonald agreed to keep .005 FTE to track HB715.  
14:43:55 Sen. Esp stated 10% FTE leftover for anything that might come up is good.  
14:44:40 Ms. Henneman

**Adopt meeting dates**

14:45:36 Ms. Henneman reviewed the meeting dates.  
14:46:46 Sen. MacDonald confirmed meeting dates worked for members.

**Additional instructions to staff, if any**

14:47:51 None

**PUBLIC COMMENT ON ANY ITEM IN LGIC'S SUBJECT MATTER JURISDICTION**

14:47:57 Mr. Rittal, MT Association of Counties.

**WRAP UP AND ADJOURNMENT**

14:49:39 With no further business in the committee, Sen. MacDonald adjourned the meeting at 2:49 p.m.