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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

September 12, 2019
Room 137, 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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Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. JASON ELLSWORTH
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

STAFF PRESENT

TONI HENNEMAN, Research Analyst
JULIE JOHNSON, Staff Attorney
LAURA SHERLEY, Secretary

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

AGENDA ([Attachment 2](#))

COMMITTEE ACTIONS

CALL TO ORDER AND ROLL CALL

08:33:26 Sen. MacDonald called the meeting to order at 8:33 a.m. and reviewed meeting procedure. The committee secretary took roll ([Attachment 3](#)).

ADMINISTRATIVE MATTERS

08:35:18 Ms. Henneman ([Exhibit 1](#))

Committee questions

08:40:11 Sen. Esp asked if the committee's January meeting was scheduled during legislative week ([Exhibit 2](#)).
08:40:51 Sen. MacDonald commented on the committee's January meeting agenda.
08:40:59 Rep. Sheldon-Galloway joined the meeting at 8:40 a.m.

DELIVERING LOCAL ASSISTANCE PROGRAM UPDATE

08:42:06 Jennifer Olson, Community Development Division Administrator, Department of Commerce

Committee questions

08:46:17 Rep. Dunwell asked if there are exceptions to the program application deadline.
08:47:48 Rep. Dunwell asked if all counties know that they are eligible for the program.
08:48:43 Sen. Malek asked if all school districts in counties are eligible.
08:49:44 Sen. MacDonald asked if railways carrying natural resources through towns make that local government eligible for the program.
08:51:10 Rep. Sheldon-Galloway asked if a county is eligible if its local refinery is protesting taxes.
08:52:42 Sen. Esp asked if hard rock mining is considered a natural resource development.

MONTANA STATE UNIVERSITY (MSU) LOCAL GOVERNMENT CENTER OVERVIEW

08:53:55 Dan Clark, Local Government Center Director, MSU ([Exhibit 3](#)) (Note: Exhibit 3 is available upon request at the Legislative Services Division)

Committee questions

09:17:27 Sen. Ellsworth asked how many full-time employees (FTE) the center employs and asked Mr. Clark to comment on the center's workload.
09:18:51 Rep. Sheldon-Galloway asked to who a county water and sewer board would report.

09:22:50 Rep. Sheldon-Galloway asked Mr. Clark to comment on the local government oversight system.

09:26:32 Rep. Custer asked if county clerk handbooks are still printed.

09:29:58 Rep. Fern asked for the center's FTE history and if the committee can assist the center with the problems being identified.

09:30:52 Rep. Webb joined the meeting at 9:30 a.m.

09:33:55 Rep. Dunwell asked if the Board of Regents could assist the center.

09:34:24 Sen. Ellsworth asked for further information on the fees charged by the center.

09:36:10 Sen. Malek asked if informational packets go to elected officials (see Exhibit 3).

09:37:08 Sen. Malek asked who appoints city council members that need to be replaced midterm.

09:37:52 Sen. Malek asked if a list of city council members is available for elected officials.

09:38:34 Sen. Malek asked if there are college-level online local government training classes available to elected officials.

09:39:38 Sen. MacDonald asked for information on state preemption of local government authority.

SJ3 - ON-SITE WASTEWATER SYSTEMS

09:42:09 Ms. Henneman ([Exhibit 4](#)) ([Exhibit 5](#)) ([Exhibit 6](#)) ([Exhibit 7](#))

Committee questions

10:07:22 Rep. Fern asked Rachel Clark, Public Water and Subdivision Review Section Supervisor, DEQ, how many applications are submitted annually for wastewater deviations and if there has been a common theme for deviation requests.

10:08:50 Rep. Fern asked Ms. Clark to discuss why people are seeking deviations.

10:09:45 Sen. Ellsworth asked Ms. Clark for clarification on what the majority of deviation requests are and asked Ms. Clark to speak on the wastewater system installation process.

10:16:27 Sen. Ellsworth asked Ms. Clark for clarification on the clearance needed between drain field wastewater systems and ground water and what options are available if the recommended clearance is not met.

10:18:57 Sen. Esp asked Ms. Clark for clarification between requests for deviations and requests for variances and asked how many deviations for new experimental systems the division receives per year.

10:20:08 Sen. Malek asked Ms. Clark to comment on existing systems that have failed and if the division has the ability to require owners to fix the failed systems.

10:22:11 Sen. Malek asked Ms. Clark for clarification of law or regulation surrounding the requirement to connect into a city sewer system.

10:24:15 Rep. Dunwell asked Ms. Clark to comment on the existing systems that no longer follow new regulations and if there is funding to help update outdated systems.

10:26:15 Rep. Fern asked if there are requirements or certification standards for professionals installing systems.

10:27:45 Sen. MacDonald asked Ms. Clark how wastewater systems could relate to public water systems found to have bacteria E.coli and nitrates present.

10:28:49 Sen. Esp asked Ms. Clark how many septic tanks fracture and emit solids into the environment and asked for further information on the common reasons for failures of a system.

BREAK (Reconvened at 10:39 a.m.)

Public comment

10:40:11 Tim Burton, Montana League of Cities and Towns
10:47:36 Ed Lieser, Flathead Basin Commission
10:53:06 Abigail St. Lawrence, Montana Building Industry Association
10:59:48 Sam Sill, Montana Association of Realtors

Committee questions

11:02:38 Rep. Fern asked Mr. Burton to define exempt wells and provide clarification on his comments regarding the relationship of exempt wells and sceptics.
11:06:23 Rep. Webb asked Mr. Sill how Lewis & Clark County enforces the maintenance requirement of wastewater systems.
11:07:18 Sen. Esp asked Mr. Burton for information on the number of exempt wells in 1999, 2009, and 2019, and how many water city accounts existed for Helena and East Helena in 1999, 2009, and 2019.
11:08:02 Rep. Dunwell asked Mr. Burton what he recommends the committee focuses on regarding wastewater system issues.
11:13:17 Rep. Custer asked Mr. Burton if there are other populations enforcing the maintenance requirement of wastewater systems.
11:15:46 Rep. Custer asked Mr. Sill to comment on a potential point-of-sale mandate for wastewater systems.

MONTANA STATE UNIVERSITY (MSU) LOCAL GOVERNMENT CENTER OVERVIEW CONTINUED

Public comment

11:18:07 Eric Bryson, Montanan Association of Counties
11:20:28 Tim Burton, Montana League of Cities and Towns

SUBDIVISION REVIEW

Overview of basic process

11:22:22 Tim Davis, Water Quality Division Administrator, Department of Environmental Quality (DEQ) ([Exhibit 8](#))

Committee questions

11:34:14 Rep. Sheldon-Galloway asked if subdivisions outside municipal water need to update or fix their wastewater systems before connecting to municipal water.
11:36:00 Rep. Sheldon-Galloway asked for clarification on subdivision reviews of storm water and asked if the division can enforce subdivision storm water regulations.
11:39:51 Rep. Sheldon-Galloway asked if contractors have storm water regulations that are enforced.
11:40:48 Sen. MacDonald asked if the division will respond to a homeowner complaint.
11:41:37 Rep. Sheldon-Galloway asked how a homeowner can prevent fines related to wildlife contamination of open storm water.
11:43:01 Sen. Esp asked Ms. Henneman if the committee received information regarding fee increases ([Exhibit 9](#)).
11:43:52 Sen. Malek asked Mr. Davis how homeowners should submit complaints to the division and how large a subdivision can be with exempt wells.
11:46:54 Rep. Fern commented on the frequency of storm water problems in the state.
11:48:13 Sen. Ellsworth asked Mr. Davis for clarification of the 2018 costs (see Exhibit 9).

- 11:49:50 Sen. Ellsworth asked Mr. Davis for clarification of the reported FTE numbers and asked for further information on the fee structure (see Exhibit 9).
- 11:53:29 Sen. MacDonald asked Mr. Davis if there will be a public comment period at the division's upcoming meeting.

Update from Subdivision Advisory Council

- 11:54:58 Ms. Henneman (see Exhibit 9) ([Exhibit 10](#))

Committee questions

- 11:58:52 Sen. MacDonald asked if the Subdivision and Development Advisory Council (SDAC) meetings are streamed online. The question was redirected to Mr. Davis.
- 12:00:37 Rep. Dunwell commented on the DEQ storm water requirements and asked Ms. Henneman to contact SDAC about the issue.

Public comment

- 12:01:42 Kelly Lynch, Montana League of Cities and Towns

LUNCH (Reconvened at 1:02 p.m.)

ENTITLEMENT SHARE

- 13:04:06 Bob Story, Montana Tax Payers Association ([Exhibit 11](#))
- 13:08:31 Harold Blattie, Montana Association of Counties ([Exhibit 12](#))
- 13:09:19 Panel presentation ([Exhibit 13](#)) ([Exhibit 14](#))
- 13:15:45 Susan Nicosia, Columbia Falls City Manager
- 13:21:30 Panel presentation

Committee questions

- 13:45:44 Rep. Dunwell asked if funds were back filled due to recent changes.
- 13:49:05 Mr. Blattie continued the presentation (see Exhibit 13) (see Exhibit 14).

Committee questions

- 13:51:58 Rep. Fern asked Ms. Nicosia for clarification on her comments.
- 13:54:41 Rep. Fern asked Ms. Nicosia for further information on the history of the entitlement share growth factor and the legislation that supported it. The question was redirected to Mr. Blattie.
- 14:00:06 Sen. Ellsworth asked Mr. Story to comment on the current legislation regarding entitlement share and what changes he would make.
- 14:04:24 Sen. MacDonald asked the panel to comment on HB 33 (2015).
- 14:10:21 Sen. Esp asked committee staff to research the legislative intent of HB 33 (2015) and the legislation regarding county levy funding flexibility.
- 14:11:28 Rep. Sheldon-Galloway asked the panel to comment on the scenario of all property tax given to counties, cities, and schools.
- 14:17:02 Rep. Dunwell commented on the entitlement process and asked the panel for clarification on their requests to the committee.
- 14:23:32 Sen. Malek asked the panel for further information on taxing new construction, corporate tax appeal, business equipment taxes, and local option sales tax.
- 14:25:46 Rep. Fern commented on potential legislation options the committee could pursue on the issues presented.

14:27:45 Sen. MacDonald asked the panel to comment on potential legislation.
14:34:40 Sen. Esp commented on the legislative intent of HB 124 (2001).
14:35:33 Rep. Fern asked Sen. Esp to comment on potential legislative options the committee could pursue on the issues presented.

BREAK (Reconvened at 2:45 p.m.)

LOCAL GOVERNMENT BUDGETING WORKSHOP

14:46:38 Mr. Blattie ([Exhibit 15](#))
14:49:48 Darla Erickson, Local Government Services, Department of Administration
14:51:21 Panel presentation

Committee questions

15:07:08 Rep. Sheldon-Galloway asked what the avenues are for advertizing hearings.

15:08:16 Ms. Erickson continued the presentation.

Committee questions

15:33:40 Sen. Esp asked Mr. Blattie to clarify the process of levying mills.

15:36:59 Mr. Blattie continued the presentation (see Exhibit 15).

LOCAL GOVERNMENT FINANCIAL REPORTING REQUIREMENTS

Overview of Rule Adoption and Rule Review Process

15:38:15 Ms. Johnson ([Exhibit 16](#)) ([Exhibit 17](#)) ([Exhibit 18](#))

Committee questions

15:41:26 Sen. MacDonald asked for clarification on the rule review authority.

SB 302 and SB 2 Review and Rule Adoption Update

15:42:48 Chet McLean, Department of Administration Local Government Services
([Exhibit 19](#)) ([Exhibit 20](#))

Public comment

16:05:10 Kelly Lynch, Montana League and Cities and Towns
16:11:03 Eric Bryson, Montana Association of Counties

Committee questions

16:12:11 Rep. Dunwell asked Mr. McLean if reporting includes the payments.
16:14:28 Sen. Esp commented on the legislative intent of SB 302 (2019) and it's current implementation plan.

HB 715 UPDATE

16:15:06 Nick VanBrown, Fiscal Analyst, Legislative Fiscal Division (LFD)

PUBLIC COMMENT ON ANY ITEM WITHIN THE COMMITTEE'S MATTER JURISDICTION

16:18:05 Bob Story, Montanan Tax Payers Association

COMMITTEE WORK SESSION

16:21:00 Sen. MacDonald asked the committee for discussion on the committee's work plan (see Exhibit 1) ([Exhibit 21](#)).

MOTION

16:21:34 Sen. Esp moved to adopt the committee's work plan (see Exhibit 1).

DISCUSSION ON THE MOTION

16:22:16 Sen. MacDonald
16:23:14 Rep. Dunwell asked for clarification on the motion.
16:23:51 Sen. Esp
16:25:15 Ms. Henneman
16:26:00 Sen. Malek asked for clarification on the motion.
16:26:55 Ms. Henneman
16:29:09 Rep. Fern
16:31:16 Sen. Esp
16:32:44 Sen. MacDonald
16:33:18 Rep. Dunwell
16:34:22 Sen. Ellsworth
16:35:20 Sen. Malek

VOTE

16:37:14 The motion passed on an unanimous voice vote.

16:37:38 Committee discussion on future meeting dates (see Exhibit 2).
16:41:48 Rep. Fern asked Ms. Henneman about the entitlement share work plan.
16:43:20 Committee discussion on the work plan for entitlement share.
16:45:40 Rep. Dunwell asked for information regarding when entitlement share affected residential property taxes payers.
16:46:25 Rep. Sheldon-Galloway asked for a summary of HB 124 ([Exhibit 22](#)) and if an audio archive of the hearing is available for review.
16:49:33 Sen. MacDonald commented on legislative week (see Exhibit 2).
16:51:22 Rep. Sheldon-Galloway asked about the committee's upcoming meeting dates.

ADJOURNMENT

16:53:13 Sen. MacDonald adjourned the meeting at 4:53 p.m.