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Local Government Interim Committee

68th Montana Legislature

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TO: Local Government Interim Committee

FROM: Toni Henneman, lead staff

DATE: June 10, 2024

Local Government Interim Committee members:

The following bill draft ideas were submitted by Vice Chair Dunwell after the May 22, 2024, LGIC meeting. She asked staff to include additional background information where possible.

Staff comments are noted in blue and include a "Drafting Level Estimate". Estimates were developed after considering the level of complexity of the bill draft idea and the remaining time available for committee work.

Committee members are encouraged to consider these ideas before our next meeting on July 17, 2024. However, staff suggests refraining from making determinations on these bill draft ideas through email or other correspondence before our meeting. Arriving at a decision through email or other correspondence outside of a public meeting may be considered in violation of our open meeting laws¹ and the public's right of participation².

This memo will be included in your July 17, 2024, meeting materials when the committee may take formal action on these bill draft ideas.

Thank you,

Toni Henneman
Lead Staff

¹ [2-3-202](#), MCA and [2-3-203](#), MCA.

² Montana Constitution [Article II, Section 8](#).

Bill ideas for LGIC (Per work session of 5-22-24 LGIC)

Housing...

Landlord incentives to keep rents affordable: remediation bonuses, risk mitigation funding, tax incentives (2023 SB 194). The state of Vermont invested \$5 M in landlord incentives and helped with affordable rentals.

Staff comments

[SB 194, 2023](#) provided an income tax credit to landlords who rent below market rate.

The [Landlord Incentive Guidebook](#) from the federal Department of Housing and Urban Development details various options including reimbursement programs for unit vacancies or damages to units, security deposit aid, and rehabilitation funds.

See the Vermont Housing Authority's [Landlord Relief Program](#) for more information on Vermont's landlord incentive program.

Landlord incentives could come in many forms, so staff would need more specific directive.

Drafting Level Estimate:

Significant – multiple drafts or multiple ideas within a draft

Simple - redraft [SB 194, 2023](#) only

Increase Coal Trust Multi-Family Housing Loan Program and state support for developers who will build affordable apartments. This MT Dept Commerce program has been an overwhelming success with a waiting list of developers to take advantage but available money runs out way before the need, according to Commerce Housing Division Administrator Cheryl Cohen.

Staff comments

Authorizing additional funding for the Coal Trust Multi-Family Home Loan Program (CTMH) has been done previously, so staff has a basic model for a bill draft.

CTMH funding history:

2019 ([HB 16](#)): program established with \$15 million transferred from the coal tax trust fund

2023 ([HB 819](#)): authorization increased to \$65 million (\$50 million additional)

The committee would need to determine the amount of additional authorization for this session.

Drafting Level Estimate: **Simple**

Workforce housing tax credits—another incentive for developers to build affordable housing. Would give developers tax credits for building affordable housing. Would augment the federal Low Income Tax Credit and allow state to draw down more federal money for affordable housing. (2023 HB 829)

Staff comments

Legislation for workforce housing tax credits was introduced in 2021 ([HB 397](#)) and 2023 ([HB 829](#)). HB 397 was vetoed by the governor in 2021 and HB 829 was tabled in House Appropriations.

The fiscal note for HB 829 provides a good overview of how the program may work.

Re-drafting HB 829 may be a lighter lift, but staff would also conduct research of potential changes in federal law or other areas affected, which may increase the time required.

Drafting Level Estimate: Simple – moderate

Re-evaluate Fair Market Rate for rentals— (per Michael O’Neill, Helena Housing Authority, during 3-20-24 LGIC meeting) Need for a statewide re-evaluation. Would reset upwards and HUD would then up its voucher payments for Montanans. Would cost \$700,000 but the result would leverage millions of dollars for affordable housing, avoid further homelessness.

Staff comments

The fair market rate study has been discussed by other legislative bodies this interim, namely the HB 872 Commission which included the re-evaluation study in the draft recommendation for consideration presented to the LGIC in May.

The HB 872 Commission included a projected cost of up to \$1 million, completed by intragovernmental transfer from the Department of Public Health and Human Services to the Department of Commerce. If the HB 872 Commission decides to move forward with the Fair Market Rent Reevaluation Study, the **funding for this transfer is already included** in the \$300 million appropriation in HB 872.

The LGIC may want to pursue a bill draft to appropriate funding for the reevaluation study if the committee believes that:

1. funding in addition to \$1 million is needed; or
2. the HB 872 Commission may not adopt the Reevaluation Study Recommendation.

Drafting Level Estimate: Simple

HOA oversight---align HOA density allowances with recently passed state laws for other communities, i.e. SB 382, ADU, multifamily in commercial district, etc.

Staff comments

Requiring HOAs to amend their density allowances may pose challenges, mainly due to the state’s limited ability to impose new requirements on existing contracts (covenants). See the Legal Primer provided at the March LGIC meeting. Further research and specific direction may be required to determine a feasible drafting method.

Drafting Level Estimate: Significant

Cleanup zombie covenants—SB 376 2023

Staff comments

[SB 376, 2023](#) was heard in the Senate Local Government Committee and House Judiciary Committee. Both committees moved multiple amendments and received lengthy testimony from both proponents and opponents. Multiple issues were highlighted, and staff would require fairly substantial time to identify and research the issues to present to the LGIC for consideration.

Drafting Level Estimate: **Moderate – significant**

Vacation/Short-Term rentals—

1. State licensing and oversight of short-term rentals that rent for fewer than 30 days
2. Allow local governments to limit numbers and types of vacation/short-term rentals.

Staff comments

Currently, a “short-term rental marketplace” must register with DOR for the collection of accommodation taxes ([15-68-111](#)).

The 2023 session saw a few bills related to short-term rentals (STRs), all of which failed to pass:

[HB430](#) – Establish a rent local program funded with tax on short-term rentals

[HB 943](#) – Revise taxation of property used as a short-term rental

[SB 268](#) – Defines an STR as a residential use of property

[SB 467](#) – Prohibit local entities from prohibiting or restricting STR rental periods

[SB 517](#) – Provide for a graduated fee on STRs, fee used for affordable housing

[HJ 34](#) – Study of short-term rentals. The study outlines a basic process that staff may mirror if drafting a bill to require licensing.

Staff offers the following considerations/questions:

1. “Short-term rental” is currently defined in [15-68-101](#): Definitions for accommodations tax. Is this definition sufficient?
2. What agency would oversee the licensing and oversight of STRs? Would the agency require funding?
3. Licensing fees/costs? Are enforcement measures needed for compliance? What are licensing fees used for/in what account are they deposited?
4. Currently, nothing expressly prohibits a local government from limiting the number or type of vacation rentals/STR. Last October, [Bozeman](#) adopted an ordinance to regulate STRs.

Drafting Level Estimate: **Moderate**

Land use & housing...

SB 382 updates—per some cities, towns & counties that gave public comment during our 3-20-24 LGIC meeting.

1. Extend the May 26, 2025, deadline.
2. Provide grants to cities like Laurel, Belgrade, Columbia Falls, to larger cities like Missoula and Whitefish to implement 382

Staff comments

Since both ideas were discussed in committee, staff has sufficient background but would need the following information to move forward:

1. What is the date of a new, extended deadline? Would the extension be granted to all cities currently under SB 382, or only a select few?
2. How much total funding is desired? Where would the funding come from (general fund?) and who would administer the grants? The draft may also include general grant qualifications, including a calculation or mechanism to determine a grant amount.

Drafting Level Estimate:

Deadline extension - Simple

Funding with grant calculations and eligibility criteria - Moderate

Behavioral Health Recommendations...

Per 5-22-24 LGIC meeting, members of the Behavioral Health HB 872 Commission said the group came up with 21 recommendations to fix system gaps. July 29 is release date for those recommendations. LGIC may want to entertain one or a couple/three as committee bills.

Staff comments

Staff would need to coordinate with the HB872 commission leadership and/or staff to determine which recommendations the LGIC would work on. Staff also recommends that the LGIC only take up recommendations within the normal policy scope of the LGIC.

The timing of these bill drafts may be complicated. The HB872 commission recommendations will not be final until after the July 17 LGIC meeting. Additional questions:

1. If the LGIC took on a HB872 commission recommendation, would the commission require that the draft come before the commission before approval?
2. Is there enough time left in the interim for the potential communication and/or presentation of draft ideas to both groups, and the potential back and forth that may be required?

Drafting Level Estimate: Moderate – significant (mainly due to time constraints and not knowing the exact policy recommendations)

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