

R21 - Support Local Government Housing Regulatory Reform

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Common Theme: Planning and Financial

Recommendation:

- Leverage state resources and expertise to decrease the costs of pro-housing reform implementation.
- Draft legislation to propose an ongoing appropriation for planning grants to local governments and tribal governments for planning and zoning to increase housing supply, and to provide rule-making authority to the Department of Commerce to establish parameters for this housing-specific planning grant program via a public administrative rule-making process.

Rationale:

The Successes Study Group heard challenges raised by local governments about the costs of reforming strict local zoning regulations. Some Montana local governments, particularly small local governments, have expressed concern that they lack the necessary in-house expertise or staff bandwidth to comprehensively revise local zoning codes, and must hire expensive outside consultants. While there are many federal/state grants available to support this sort of work, the state can leverage resources to help reduce the actual amount of work involved with a locally-driven zoning reform process, reducing the need for expensive hired consultants.

For example, [SB 382](#) required the Department of Commerce to develop a list of public participation methods and best practices for use by local governments in developing, adopting, or updating a land use plan or regulations. This was intended to reduce the burden of work involved with developing new policies, methods, and procedures for public participation as contemplated under the law. However, more can be done.

As additional background, HB 825 from the 2023 legislative session, short title “Home Ownership Means Economic Security Act” or the HOMES Act, included a \$25 million appropriation from the state special revenue account to the Department of Commerce to administer planning grants to eligible entities. The intent of this fund was to “provide planning grants to local governments and tribal governments for planning and zoning to increase housing supply” and “cover administration costs of the program.” HB 825 further included rule-making authority for the Department of Commerce for this planning grant program.

The original intent of the planning grant funds in HB 825 included reviewing criteria and the application scoring system to prioritize applications to the Montana Board of Investment’s (BOI) Montana Housing Infrastructure earnings state special revenue account program (also proposed in

HB 825). These application reviews were to include: (1) ensuring readiness to proceed; (2) ensuring subdivision improvement agreement; and (3) reviewing other factors relevant to promoting successful housing developments that meet a minimum gross density of ten units per each acre. HB 825 missed the deadline to appropriation bill transmittal.

Portions of the HB 825 HOMES Act were later included in HB 819, which was passed by the 2023 legislature and signed into law by Governor Gianforte. However, the planning grant appropriation was reduced from \$25 million to \$1 million, rule-making authority was removed and the planning grants were de-coupled from the HOMES Act / BOI components of HB 825 which were ultimately included in HB 819. The resulting language in HB 819 is ambiguous and limited to “provide planning grants to local governments and tribal governments for planning and zoning to increase housing supply” and “cover administration costs of the grant program”, without any reference to the HOMES Act / BOI program in HB 819 nor to SB 382.

Currently, stakeholders have expressed differences of opinion as to the use/prioritization of the \$1 million planning grant appropriation that was included in HB 819. As one example, the League of Cities and Towns has indicated a preference for the Department of Commerce to prioritize these planning grants for communities impacted by SB 382 “Create the Montana Land Use Planning Act”, which focuses on municipalities with a population at or exceeding 5,000 located within a county with a population at or exceeding 70,000 in the most recent decennial census.

Barriers Addressed:

Section 22 of HB 819 passed in the 2023 legislative session includes a \$1 million appropriation from the general fund to the Department of Commerce for the biennium beginning July 1, 2023, for planning grants. The bill language is unclear as to whether this is a one-time only appropriation or an ongoing appropriation each biennium, and rule-making authority to clarify use/prioritization of planning grant funds was not provided.

Cities and towns have expressed concerns as to their local capacity and costs associated with implementation of SB 382. This work involves comprehensively reforming local planning and zoning regulations. The expense of various common planning grant deliverables, such as Preliminary Engineering Reports, have more than doubled over the last several years (increasing from approximately \$35,000 to \$65,000 - \$70,000), limiting the reach of other existing Department of Commerce resources, including the federal Community Development Block Grant (CDBG) and state Montana Coal Endowment Program (MCEP) planning grant programs.

While the CDBG planning grant program can be used to support local planning and zoning efforts to increase the housing supply, such as Growth Polices, Housing Needs Assessments, Zoning Regulations, etc., there are federal requirements for eligibility, match requirements and necessary grant administration that some local jurisdictions are not able to meet. Furthermore, demand for these planning grants greatly exceeds available funding.

Separately, MCEP planning grants currently cannot be used to support local planning and zoning efforts to *increase* housing supply as they can only be used by local governments with

infrastructure planning efforts tied to upgrading *existing* water or wastewater facilities, sanitary or storm water systems, and bridges.

Key Strategies:

Increasing and providing for an ongoing appropriation for planning grants specific to new housing growth, which may include planning grants to support SB 382 implementation, will enable local governments to focus additional efforts to identify housing growth needs and to develop and implement activities to increase housing supplies. Additionally, allowing for rule-making authority provides a public process for input on prioritization of planning grant funds resulting in increased collaboration between the state and local governments.

1. Model Ordinances

- a. The Department of Commerce should continue to leverage and build upon its in-house planning expertise to create model ordinances for local governments to implement legislative zoning reforms. Drafting model ordinances is already included in the Commerce Community MT Division's work, in addition to providing direct technical assistance through its [Community Technical Assistance Program](#).

2. Data Modeling

- a. Department of Commerce: municipal population projections, housing data inventories, economic development analysis. The Commerce Community MT Division is already collaborating with the Commerce Census and Economic Information Center (CEIC) and the League of Cities and Towns on how to best provide this data. This work includes creating a Community Planning Platform on the Commerce [website](#), which will include community story maps for each of the 10 Land Use Planning Act (LUPA) communities, and other mapping tools to support local governments as they undertake major planning activities.
- b. Montana Department of Transportation: jurisdiction-wide traffic models.
- c. State Library: environmental and wildlife inventories and impact models.

3. Best Practices and Planning Methodology

- a. Follow through on SB 382 requirements that the Department of Commerce shall develop a robust list of public participation methods and best practices for use by local governments in developing, adopting, or updating a land use plan or regulations. The Commerce Community MT Division is already collaborating with its CTAP consultants and the Montana League of Cities and Towns on this body of work.

Dissenting Opinions:

- Department of Commerce could prioritize existing planning grants to support local governments with planning and zoning to increase housing supply, instead of an additional appropriation.

- The Department of Commerce's Community Technical Assistance Program (CTAP) has experienced various challenges including staffing transitions which has limited its impact in recent years.
- Local governments should not rely on state planning grants but should instead consider ways to allocate additional local funds to these efforts.
- The expansion of residential developments may exceed the capabilities of existing public safety departments (police and fire). It is best to include those departments early in the planning process to ensure for essential services.

Supporting Graphics:

None identified.