

**FINAL REPORT**  
**of the**  
**EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE**  
**2011-2012 INTERIM**

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## Part I Introduction

The Education and Local Government interim committee's duties as enumerated in the committee's enabling statute, section 5-5-224, MCA, span a wide range of subjects. One could argue that nearly every public policy matter under the sun stems from or affects local governments, schools, or both. A review of the work conducted by ELG during the 2011-2012 interim attests to the wide net the committee must cast to meet its statutory responsibilities. Prioritization becomes an imperative and, although many important topics of statewide importance populated ELG's agendas, a primary focus became K-12 education--finance, budgets, data collection and use, accreditation standards, and impacts to schools in and near the oilfields. A retrospective of all of the committee's activities and summary of its recommendations follows.

Part II  
Originating Statute

Section 5-5-224, MCA, provides ELG's specific statutory duties, which fall into three primary categories: local government relations; general state administration of education; and postsecondary education. The section requires the committee to:

1. act as a liaison with local governments;
2. execute administrative rule review, draft legislation review, program evaluation, and monitoring responsibilities for the following agencies and the entities attached to the agencies for administrative purposes:
  - a. State Board of Education
  - b. Board of Public Education
  - c. Board of Regents of Higher Education; and
  - d. Office of Public Instruction;
3. provide information to the Board of Regents in the following areas:
  - a. annual budget allocations;
  - b. annual goal statement development;
  - c. long-range planning;
  - d. outcome assessment programs; and
  - e. any other area that the committee considers to have significant educational or fiscal policy impact;
4. periodically review the success or failure of the university system in meeting its annual goals and long-range plans;
5. periodically review the results of outcome assessment programs;
6. develop mechanisms to ensure strict accountability of the revenue and expenditures of the university system;
7. study and report to the legislature on the advisability of adjustments to the mechanisms used to determine funding for the university system, including criteria for determining appropriate levels of funding;
8. act as a liaison between both the legislative and executive branches and the Board of Regents;
9. encourage cooperation between the legislative and executive branches and the Board of Regents;
10. promote and strengthen local government through recognition of the principle that strong communities, with effective, democratic governmental institutions, are one of the best assurances of a strong Montana;
11. bring together representatives of state and local government for consideration of common problems;
12. provide a forum for discussing state oversight of local functions, realistic local autonomy, and intergovernmental cooperation;
13. identify and promote the most desirable allocation of state and local government functions, responsibilities, and revenue;
14. promote concise, consistent, and uniform regulation for local government;
15. coordinate and simplify laws, rules, and administrative practices in order to

- achieve more orderly and less competitive fiscal and administrative relationships between and among state and local governments;
16. review state mandates to local governments that are subject to 1-2-112 and 1-2-114 through 1-2-116;
  17. make recommendations to the legislature, executive branch agencies, and local governing bodies concerning:
    - a. changes in statutes, rules, ordinances, and resolutions that will provide concise, consistent, and uniform guidance and regulations for local government;
    - b. changes in tax laws that will achieve more orderly and less competitive fiscal relationships between levels of government;
    - c. methods of coordinating and simplifying competitive practices to achieve more orderly administrative relationships among levels of government; and
    - d. training programs and technical assistance for local government officers and employees that will promote effectiveness and efficiency in local government; and
  18. conduct interim studies as assigned.

Part III  
Committee Recommendations

- ELG requested LC 184 to eliminate the Student Loan Advisory Council.
- ELG requested LC 183 to eliminate one-time-only reporting requirements for an At-Risk Students report and an American Indian Achievement Gap report with which OPI had complied in 2010, and eliminate an optional biennial report of the Superintendent of Public Instruction.
- ELG recommended that the authority for the remaining advisory councils and reporting requirements reviewed by the committee remain intact.
- ELG reaffirmed its agreement with the provisions of the Shared Policy Goals and Accountability Measures with one addition to the goals of the Montana University System dealing with affordability of postsecondary education, and recommended more in-depth review of the components of the Shared Policy Goals and Accountability Measures by the 2013-2014 ELG and various stakeholders.
- ELG requested LC 182 to implement additional changes to county and school district budgeting deadlines identified after enactment of HB 123 by the 62nd Legislature.



Part IV  
Committee Work

A. Statutory Duties

Administrative Rule Review and Review of Accreditation Standards (20-7-101, MCA)  
ELG legal staff provided reports on administrative rules being proposed by agencies to which the committee is statutorily assigned. Much of ELG's activity related to rule review centered around the committee's statutorily-designated role in section 20-7-101(2). This section provides:

20-7-101. Standards of accreditation. (1) Standards of accreditation for all schools must be adopted by the board of public education upon the recommendations of the superintendent of public instruction.

(2) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal to the education and local government interim committee for review. The interim committee shall request a fiscal analysis to be prepared by the legislative fiscal division. The legislative fiscal division shall provide its analysis to the interim committee and to the office of budget and program planning to be used in the preparation of the executive budget.

(3) If the fiscal analysis of the proposal is found by the legislative fiscal division to have a substantial fiscal impact, the board may not implement the standard until July 1 following the next regular legislative session and shall request that the same legislature fund implementation of the proposed standard. A substantial fiscal impact is an amount that cannot be readily absorbed in the budget of an existing school district program.

(4) Standards for the retention of school records must be as provided in 20-1-212. Board of Public Education rules implementing Common Core State Standards and rules amending Chapter 55 Accreditation Standards and the costs estimated to be associated with those changes.

In the Fall of 2011, the Board of Public Education proposed by rule content standards for English and Mathematics that were to be consistent with the Common Core State Standards. As required in section 20-7-102, the committee requested a [fiscal analysis](#), which was later [updated](#), of the proposed Common Core accreditation standards. During the summer of 2012, the Board proposed changes to accreditation standards located in Title 10, Chapter 55 of the Montana Administrative Rules. This proposal also prompted a request for a [fiscal analysis](#). The fiscal analyses are located on the K-12 funding training portion of the Legislative Fiscal Division's website (<http://leg.mt.gov/css/fiscal/reports/Education-Publications.asp>). The conclusions of the fiscal analyses and the discussion they generated are included in the portion of this report specific to ELG's education-related activities.

Review and Request Agency Legislation (5-5-215, MCA)

The committee is required to review legislation that the agencies to which the committee is assigned plan to propose during the legislative session. The Office of Public

Instruction submitted titles and short descriptions of its intended legislation in June 2012. ELG requested on behalf of OPI that all of the agency's proposed bills be drafted. The other agencies that are required to submit legislative proposals to ELG did not intend to request legislation for the 2013 Session.

#### Sand and Gravel Report (82-2-701, MCA)

The Bureau of Mines and Geology, a unit of the Montana University System, is required to establish a Sand and Gravel Deposit Program to investigate, if funding allows, sand and gravel deposits in areas where there are conflicts between development and sand and gravel operations. In prioritizing areas for investigation, the Bureau must consider the largest counties (based on census data) and the counties with the most open-cut mining permits and subdivision applications. Within 1 year of starting an investigation the Bureau is required to report the results to the county in which the investigation occurred, the Environmental Quality Council, and ELG. An investigation was not initiated so no action was required.

#### State Heritage Properties Report (22-3-423, MCA)

The 2009-2010 ELG requested Senate Bill No. 3 as a result of that interim's HJR 32 study of historic preservation. The bill requires state agencies to regularly report to the Preservation Review Board on the status and stewardship of the agencies' heritage properties. The State Historic Preservation Officer (SHPO) must provide the information presented to the Preservation Review Board, along with any recommendations, to "an appropriate interim committee". The Preservation Review Board is part of the Montana Historical Society, which is an agency allocated to the State Board of Education for administrative purposes (2-15-151, MCA). Because ELG is statutorily required to monitor the activities of the State Board of Education, it is the appropriate interim committee to receive the SHPO's report.

In September 2012, the SHPO and the chair of the Preservation Review Board presented "[Montana's Shared Heritage: First Biennial Report on the Status, Condition, and Stewardship of Montana's State-owned Heritage Properties](#)". The report outlines the process established for state agencies to report on their heritage properties and lists and discusses in detail the following 12 findings and six recommendations identified by the Preservation Review Board and the SHPO.

#### *Findings*

1. Of the 437 known state-owned heritage properties, only 265 were reported on in this cycle. There are also numerous unknown and undocumented potential heritage properties. The state's inventory is incomplete.
2. The status of several properties is unresolved; the SHPO and agency disagree about the heritage status of these properties.
3. Other unreported properties represent outstanding questions of responsibility for the management of properties on state-owned land. Not all agencies accept responsibility for properties they manage on state-owned and federally-leased

land.

4. Properties with divided ownership, including mineral rights, create confusion among the agencies and other entities.
5. Based upon the agency reports, it appears that 9.1% of the reported properties are endangered and 58.9% have a satisfactory status.
6. Thirty-four percent of the heritage properties are described as in excellent condition, while 11.7% are poor or have failed. The condition of 13.6% is unknown.
7. Repair and maintenance of heritage properties is not sufficiently funded.
8. Some agencies have heritage properties that don't fit with their mission.
9. State agencies would benefit from expanded guidance and instruction from SHPO for both reporting and for consideration and management of heritage properties.
10. Statewide stewardship costs for the last two years are reported to have been \$5 million. Of this, nearly \$3 million was dedicated to restoration projects and \$1.1 million to maintenance.
11. Some agencies have supplemented their state and, if any, federal, funds for heritage property stewardship with grants and partnerships.
12. Those agencies with cultural resource specialists have access to valuable input and coordination in terms of preservation efforts.

#### *Recommendations*

1. Include historic preservation and stewardship in facilities and resource master planning to address priority preservation maintenance needs.
2. Designate and train a historic preservation officer (HPO) within each agency to oversee agency identification and consideration of state-owned heritage properties and to coordinate agency consultation with SHPO.
3. Provide agencies with professional expertise in preservation.
4. Promote a proactive relationship between the agencies and SHPO. Cultivate a positive, helpful working relationship to include early planning, training of agency personnel, assistance with agencies' legal responsibilities, and development of working teams and processes.
5. Hold agencies accountable for their consideration of the impact of their undertakings on heritage properties and for their reporting.
6. Enable greater consistency of meaningful reporting in the next reporting cycle.

### Advisory Councils, Statutorily-required Reports (5-5-215, MCA)

Section 5-5-215 requires each interim committee to "review statutorily established advisory councils and required reports of assigned agencies to make recommendations to the next legislature on retention or elimination of any advisory council or required reports pursuant to 5-11-210."

#### *Advisory Councils*

Advisory councils relevant to ELG's subject area jurisdiction and the entities to which they are attached are listed below. The committee reviewed each council over the course of the interim, involving members of the various councils and the agency staff assigned to the councils.

1. Fire Services Training Advisory Council (2-15-1519, MCA); Board of Regents
2. Student Loan Advisory Council (2-15-1520, MCA); Board of Regents
3. Certification Standards and Practices Advisory Council (2-15-1522, MCA); Board of Public Education
4. Governor's Postsecondary Scholarship Advisory Council (2-15-1524, MCA); Office of the Commissioner of Higher Education

During this process, a representative of the Office of the Commissioner of Higher Education and the chair of the Student Loan Advisory Council recommended elimination of that Council. The following points summarize their testimony and the reasons for their recommendation:

- During the Council's 33-year existence, its focus has been on facilitating the processing of loans among students, the Guaranteed Student Loan Program, and lenders, as well as dealing with any operational issues that arose in loan processing.
- As many as 100 lenders participated in the program and lenders had significant interest in serving on the Council.
- The Council has not engaged in advising on student loan policies or rules.
- In 2007, Congress changed the compensation levels for guaranteed agencies as well as for lenders which caused many lenders to leave the program.
- In 2010, the Federal Direct Loan Program took over all loan originations and there are now no loans originating through the Guaranteed Student Loan Program.
- Only two lenders now participate in the program, due primarily to the changes implemented at the federal level.

- These changes and the lack of participation from lenders have rendered the Council obsolete.
- The Board of Regents has established the Affordability Task Force to examine some of the most important issues related to student loans, including affordability of postsecondary education, loan default prevention, and financial literacy.

ELG requested SB 87, which was enacted by the 2013 Legislature, to eliminate the Council. The committee recommended that the remaining three advisory councils remain in statute and continue to operate.

### *Required Reports*

The following are the reports within ELG's subject area jurisdiction that are required by statute, listed along with the statutory citation and the entity responsible for each report.

1. Carl D. Perkins Career and Technical Education Improvement Act, 2006 -- Legislative Report (20-7-330, MCA); Board of Regents
2. Biennial Report to the Governor and the Legislature (22-3-107, MCA); Montana Historical Society
3. At-Risk Students Report (20-9-328, MCA); Office of Public Instruction
4. American Indian Achievement Gap Report (20-9-330, MCA); Office of Public Instruction
5. Education Commission of the States (20-2-501, MCA); Education Commission of the States
6. Biennial Report of the Superintendent of Public Instruction "if considered necessary" (20-3-105, MCA); Office of Public Instruction
7. Quality Schools Facilities Grant Program (90-6-810, MCA); Department of Commerce
8. Western Regional Higher Education Compact (20-25-801, MCA); Western Interstate Commission for Higher Education
9. State Agency Heritage Properties (Ch. 187, L. 2011); State Historic Preservation Office

ELG staff summarized the reporting requirements and provided the committee with reference information to enable members to read the most recent reports. Upon

learning that the At-Risk Students report required in section 20-9-328 and the American Indian Achievement Gap report required in section 20-9-330 were intended as one-time-only reports that the Office of Public Instruction completed in September 2010 and that the Biennial Report of the Superintendent of Public Instruction is discretionary, ELG requested SB 2, to remove those references from the Montana Code Annotated. The 2013 Legislature amended SB 2 to require that the At-Risk Students report and the American Indian Achievement Gap report be provided to the Governor and the legislature on or before September 15 of every even-numbered year.

The committee recommended retention of the remaining reporting requirements.

## B. Assigned Studies and Resolutions

### HJR 39 Study of Subdivision for Lease or Rent Exemption

Section 76-3-604, MCA, states that the "The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, is not a division of land, as that term is defined in this chapter, and is not subject to the requirements of this chapter." The requirements to which the section refers involve local review of proposed subdivisions under the Montana Subdivision and Platting Act.

In recent years the section, and the associated exemption allowance, has been interpreted differently in different jurisdictions, particularly in Missoula County, Lewis and Clark County, and Ravalli County. In August of 2009, the Missoula County Attorney requested an Attorney General opinion on whether section 76-3-204 exempts from local subdivision review the construction or conveyance of more than one building, structure, or improvement on a single tract of record. The Attorney General's office released a draft opinion in March of 2010, with the preliminary holding that section 76-3-204 does not exempt from review the construction or conveyance of more than one building, structure, or improvement on a single tract of land.

The release of the draft opinion prompted legislators to request two bills for introduction to the 2011 Legislature. HB 494, as introduced, sought to clarify that the exemption applies to the sale, rent, lease, or other conveyance of one *or more* buildings, structures, or improvements on a single parcel in the same ownership. HB 629, as introduced, sought to establish alternative review procedures for the rent or lease of additional buildings or structures and to further define the situations in which the exemption would apply. One of the statements in HB 629's preamble states that "limiting the exemption ... to a single building or structure places an undue burden on private property owners and an unreasonable restriction on the free use of property." This statement was representative of the testimony in favor of both bill drafts as they progressed through the legislature. Those who opposed the bills saw too many loopholes and feared that the bills would allow extensive property development--and associated impacts--to occur with no local notice or review at all. The fundamental differences between development pressures and housing needs between eastern and

western portions of the state presented additional complications.

The Senate Local Government committee tabled HB 629 and sent HB 494, with amendments, to the Senate floor. The bill passed and was transmitted to the Governor, who returned it with proposed amendments. The motion to accept the amendments failed on a tie vote and HB 494, too, died in the process. These events contributed to the introduction and passage of HJR 39, a request to study subdivision exemptions, with particular focus on the exemption from review for the sale, rent, lease or other conveyance of buildings.

To establish baseline knowledge among ELG members, committee staff and staff of the Department of Commerce's Community Technical Assistance Program (CTAP) provided extensive background information on the Montana Subdivision and Platting Act, including the history of the exemptions, as well as the sequence of events during the 2011 session that led to the study resolution request, and the litigation and Attorney General's draft opinion on the subject.

The committee authorized formation of a working group comprised of representatives of various organizations and private property owners, to be facilitated by CTAP staff. In the midst of the interim study, in January 2012, the Attorney General issued a final opinion that held substantially the same conclusions as the draft opinion.

The working group met several times to determine if areas of consensus could be reached and provided regular updates to ELG on its progress. The working group found general agreement on some policy directions, but consensus was not achieved on any specific bill drafts. With that understanding, CTAP staff and ELG staff presented five bill drafts for the committee's consideration in June 2012 and members of the working group as well as members of the public provided comment. Two ELG members, Sen. Facey and Rep. Rosendale, were assigned to conduct additional study between the June and September meetings, and the concept for a sixth bill draft proposal was presented at the committee's September 2012, meeting.

At the study's conclusion, the committee decided not to request as committee bills any of the six options presented by the working group members or by Sen. Facey and Rep. Rosendale.

Sen. Rosendale requested SB 324 (Ch. 379, L. 2013) to establish local review processes for these properties. The bill was enacted by the 2013 Legislature and signed by the Governor.

#### SJR 28 Study of Outcome-Based K-12 Education

SJR 28 stated that the Shared Policy Goals and Accountability Measures, completed during the 2009-2010 interim by ELG and representatives of K-12 and higher education agencies and organizations, requires greater efficiency, improved outcomes, lower dropout rates, and increased graduation rates. The resolution also states that Montana

taxpayers deserve the best possible return on their investment in education.

SJR 28 proposed a study of performance-based K-12 education funding, looking to models in other states and using resources available from national organizations that have been involved in studying this method of school funding. SJR 28 proposed that the study consider the following elements of a performance-based funding formula:

1. a retention component that would set aside a percentage of funds to be distributed to a district or school when the district or school attains performance thresholds;
2. a bonus component that would identify a portion of funds to be used to induce a district or school to meet performance goals and objectives and reward having met the goals and objectives; and
3. a reduction component to function as a funding penalty for failure to meet performance benchmarks.

After reviewing models in other states and considering the elements listed above, the resolution suggested that the committee design a performance-based funding formula or structure that would be appropriate for Montana and to develop an implementation plan for consideration by the Governor, the Superintendent of Public Instruction, and the 63rd Legislature.

Staff provided background information and reports on performance-based and outcome-based systems in other states. In November 2011, ELG refined its [study priorities](#) to focus on information-gathering and on longitudinal data systems, rather than on actually developing an outcome-based system for consideration by the 2013 Legislature.

In November 2011, the Data Quality Campaign presented information about the importance of longitudinal data systems in improving student performance outcomes and reported on examples of effective systems in other states. The Office of Public Instruction provided in-depth information and regular updates on the development of its longitudinal data system, Growth and Enhancement of Montana's Students (GEMS) and demonstrated the system's anticipated capabilities. National Conference of State Legislatures education policy staff presented information on outcome measures required by states of charter schools.

The committee decided not to issue specific recommendations or request legislation as a result of the study.

#### SJR 26 Monitoring Agency Activities as Recommended by Joint Appropriations Subcommittee

As provided in SJR 26, ELG's involvement focused on monitoring of K-12 education and the progress on "(1) implementing state actions to create a culture of effective data use and to improve student performance; and (2) goals and objectives on K-12, higher



education, and P-20, including the role and mission of the Education and Local Government Interim Committee, which absorbed the Joint Committee on Postsecondary Education Policy and Budget that was repealed in 1999."

The monitoring requested in SJR 26 was consistent with ELG's goals in collecting information on data systems and outcome-based education systems in other states, as well as reviewing the Shared Policy Goals and Accountability Measures (SPGs) developed during the 2009-2010 interim by a subcommittee of ELG, along with representatives of the Office of Public Instruction, the Office of the Commissioner of Higher Education, and other education-related organizations.

ELG reaffirmed its agreement with the provisions of the SPGs and recommended more in-depth review of the components of the SPGs by the 2013-2014 ELG.

### C. ELG Activities Related to Statutory Subject Area Jurisdiction

#### *EDUCATION*

##### K-12 Finance Training

Two to three hours of all but one ELG meeting were dedicated to committee member training on the evolution of K-12 finance in Montana, along with detailed information about the current funding formula and structure. Legislative Fiscal Division and Services Division staff focused presentations on how the Constitution, litigation, and court decisions over the years have shaped the K-12 funding formula, as well as how the current funding formula works and the changes that were implemented by the 2011 Legislature.

In November, 2011, the Superintendent and the Finance Officer for Havre Public Schools discussed their budgeting process and the components of that district's budget. In addition, the committee reviewed the characteristics, revenue sources, and statutory restrictions of all [funds at the school district level](#).

A [website](http://leg.mt.gov/css/fiscal/reports/Education-Publications.asp) (<http://leg.mt.gov/css/fiscal/reports/Education-Publications.asp>) maintained by the Legislative Services and Fiscal Divisions includes links to all of the presentations, as well as to numerous previous Legislative Branch and Executive Branch reports related to K-12 finance and to the significant court decisions.

##### Shared Policy Goals and Accountability Measures

A subcommittee of the 2009-2010 ELG joined with representatives of the Office of Public Instruction, the Office of the Commissioner of Higher Education, the Board of Public Education, and other education-related agencies to develop Shared Policy Goals and Accountability Measures (SPGs) for the Montana University System, K-20 education systems, and K-12 education systems. Portions of the January, March, and June, 2012, meetings were dedicated to reviewing those documents and discussing whether any updates or changes were warranted. No changes were recommended for

the K-12 or K-20 documents. The Office of the Commissioner of Higher Education proposed a change to the University System document, to which ELG agreed.

The change incorporates the following item into Goal 1.3 (Promote post-secondary education affordability) of the University System document: "Decrease average loan amounts and the percentage of students borrowing."

ELG recommended that the documents remain in effect and that the committee plan an in-depth review of the SPGs early in the 2013-2014 interim, involving all of the stakeholders who developed the original documents.

### 2-year Education

[College!NOW](#) is the Montana University System's initiative to increase awareness and use of 2-year colleges in Montana. In January 2012, the Office of the Commissioner of Higher Education's Deputy Commissioner for Two-Year and Community College Education presented details about the University System's efforts to expand the role and scope of these institutions, the populations they serve, and the focus on workforce training. The presentation included information on dual enrollment, Big Sky Pathways, and the Workforce Development Task Force.

ELG also considered a bill draft, at the request of Sen. Hawks, that would require counties in which a two-year postsecondary program of the University System is located to levy a tax of 1.5 mills to provide a consistent funding source for the program in the county. Section 20-25-439, MCA, requires the counties of Lewis and Clark, Missoula, Silver Bow, and Yellowstone to levy this tax. Passage of a bill such as this would require the levy in those counties, plus Cascade, Gallatin, Hill, Ravalli, and Beaverhead.

The committee decided not to pursue any legislation.

### Montana University System Monitoring

The committee's other MUS monitoring included a discussion on tuition policies and affordability of postsecondary education, the MUS system initiatives developed by the Board of Regents, enrollment in the system, the components of the [MUS Strategic Plan](#), which mirrors the MUS Shared Policy Goals and Accountability Measures document, and an in-depth discussion about K-12 teacher education and training with the Deans of the Colleges of Education at Montana State University and the University of Montana, which occurred at the committee's January 24, 2012, meeting.

Two ELG members were also designated to attend meetings of the Board of Regents as their schedules allowed and report their observations to the committee.

### Office of Public Instruction Monitoring (including GEMS and SB 329 implementation)

ELG's monitoring of OPI's activities included regular progress reports on and demonstrations of OPI's longitudinal data system (Growth and Enhancement of Montana's Students or GEMS) and a response from OPI on the Data Quality

Campaign's recommended state actions to support effective data use; a report on the [Montana Comprehensive Assessment System \(MontCAS\)](#) and the future of student assessments; the Superintendent of Public Instruction's decision to delay the scheduled increase of the Annual Measurable Objectives required under the No Child Left Behind Act and the U.S. Department of Education's response; and OPI's participation in the Chapter 55 Accreditation Standards Task Force and the Common Core State Standards.

### Common Core State Standards and Chapter 55 Accreditation Standards

The Common Core State Standards Initiative website

(<http://www.corestandards.org/about-the-standards>) describes the genesis of the initiative:

The Common Core State Standards Initiative is state-led effort coordinated by the National Governors Association Center for Best Practices (NGA Center) and the Council of Chief State School Officers (CCSSO). The standards were developed in collaboration with teachers, school administrators, and experts, to provide a clear and consistent framework to prepare our children for college and the workforce.

The NGA Center and CCSSO received initial feedback on the draft standards from national organizations representing, but not limited to, teachers, postsecondary educators (including community colleges), civil rights groups, English language learners, and students with disabilities. Following the initial round of feedback, the draft standards were opened for public comment, receiving nearly 10,000 responses.

In May of 2009, the Governor and the Superintendent of Public Instruction forwarded to the Executive Director of the National Governors Association a signed memorandum of agreement for Montana's participation in the initiative.

The Common Core State Standards were to be implemented by administrative rule proposed and adopted by the Board of Public Education. Once the rules were adopted, the standards were not scheduled to be fully implemented until July 1, 2013.

ELG reviewed the changes being proposed and, in accordance with section 20-7-101, reviewed the Board of Public Education's assumptions related to estimated implementation costs and requested a fiscal analysis of implementation by school districts. Legislative Fiscal Division staff conducted the [fiscal analysis](#) and reported initial findings and conclusions to ELG.

LFD's conclusion stated:

The Legislative Fiscal Division finds that the estimated costs of implementing the adoption of the Montana Common Core English

Language Arts and Mathematics Content Standards and Performance Descriptors are not substantial and as such do not require the Board of Public Education to delay implementation until July 1, 2013 to allow the legislature to deliberate on funding the additional costs. Again, it should be noted that July 1, 2013 is the implementation date adopted for the standards by BPE allowing school districts two years to pay for the costs of implementation for such cost components as textbooks.

LFD's initial cost estimates, provided in a January 2012 report, are detailed in the following table.

Cost Component	Estimated Cost	One-Time-Only	Ongoing Cost
Professional Development	\$954,017	\$954,017	\$0
Curriculum Development	914,112	914,112	0
Textbooks and Supplemental Materials	1,126,084	1,126,084	0
Mathematics Teachers	2,323,432	0	2,323,432
Assessments and Computer Costs	<u>967,505</u>	<u>444,150</u>	<u>523,355</u>
Total Estimated Cost	<u>\$6,285,150</u>	\$3,438,363	\$2,846,787

Following the release of LFD's report, much of the comment centered around the methodology applied and the meaning of "substantial". Section 20-7-101 provides that if a proposal is found to have a "substantial fiscal impact", the Board of Public Education (BPE) may not implement the standards until July 1 following the next regular legislative session and the BPE shall request that the legislature fund implementation. "A substantial fiscal impact," reads the section, "is an amount that cannot be readily absorbed in the budget of an existing school district program."

In the absence of any more specific guidance on how to make the determination of whether an amount can be readily absorbed by a district, the LFD decided that "if the implementation costs are less than 1% of the general fund budget for the district the LFD estimates the school district can readily absorb the costs within the school district budget."

LFD's conclusion that the estimated costs were not substantial did not preclude the BPE from requesting funding for implementation, but did not require it either.

ELG heard regular updates on the estimates as they were adjusted in response to comment from the education community, including school district representatives and representatives of education advocacy organizations. The majority of entities and organizations whose representatives spoke to ELG voiced concerns over potential significant financial and logistical challenges associated with implementing the standards.

A table in LFD's [updated cost estimate report](#), released in May 2012, shows how the numbers evolved.

The committee also reviewed the work of the Chapter 55 Accreditation Standards Task Force and the proposed changes to the accreditation standards, requested a fiscal analysis of the estimated costs of those changes, and received comment on implementation.

The process to update the Chapter 55 accreditation standards began in April 2010 when the BPE formed a task force to discuss and develop standards. In late summer, 2012, BPE held a public hearing on the rules to implement the Chapter 55 standards and in September, the BPE voted to adopt the standards.

The LFD completed the [Chapter 55 fiscal analysis](#) requested by ELG in September and concluded that, based on the working definition of "substantial", the standards will not have a substantial impact on local school districts. The introductory summary states:

LFD estimates the total statewide incremental fiscal impact for the proposed amendments to be \$1.3 million. Ongoing cost will total \$1.0 million per year. Three quarters of this impact is due to a requirement that districts implement a new mentoring and induction program. While the impact on individual school districts will vary, by the definition developed and adopted by the LFD for previous analyses this impact is not considered to be substantial.

As was the case with the Common Core standards, the committee heard considerable debate and comment on the definition of "substantial".

#### Board of Public Education Monitoring

During the first half of the interim, two members of the committee were designated to attend Board of Public Education meetings and report to ELG.

#### Board of Regents Monitoring

During the first half of the interim, two members of the committee were designated to attend Board of Regents meetings and report to ELG.

#### Compact on Educational Opportunities for Military Children

At the request of Rep. Price, ELG dedicated a portion of its agenda in March 2012 to learning about the Interstate Compact on Educational Opportunities for Military Children, which has been adopted by 41 states. The Council of State Governments Military Interstate Children's Compact Commission is the organization that advocates for state adoption, and representatives of the Commission as well as a representative of the Department of Defense presented detailed information about the contents of the compact, how the compact benefits children in military families who must frequently transfer among schools with different requirements, and what the compact does and does not require of participating states.

Public comment included parents of children in military families who are affected by frequent moves and how the compact would mitigate problems associated with those transitions.

ELG did not act to request a committee bill, but a draft to implement the compact in Montana was requested by Sen. Buttrey for introduction in the 2013 session.

#### Montana School Boards Association AA, A, B, C, and Indian School Boards Caucuses

At the suggestion of the Montana School Boards Association (MSBA), ELG agreed early in the interim to host discussions at three of its meetings with representatives of schools of all sizes and constituencies in Montana. The MSBA arranged for members of each of its caucuses to travel to Helena and present information on their schools' unique characteristics, achievements, and challenges. The committee discussed a wide range of subjects with these representatives, including funding challenges, the impacts of oil drilling development in Eastern Montana on school services and infrastructure, and innovative ways that some districts deal with the problems that their size, location, and student demographics pose. Representatives from the following school districts participated in these discussions: Boulder, Malta, Gardiner, Culbertson, Sunburst, Poplar, Dodson, Lodge Grass, Great Falls, East Helena, Corvallis, Bozeman, Seeley Lake, and Lolo.

#### Libraries

A representative of the Montana Library Association and the Montana State Librarian provided a report on the role of libraries in education.

#### Teacher Training, Recruitment, Retention

In January 2012, ELG hosted a discussion with the Deans of the Colleges of Education at Montana State University and the University of Montana. The Deans were asked to report on their program curricula and how they prepare teachers to be most effective with changing technology, changing demands, and changing enrollment. The report included a Course Crosswalk for Elementary Education at both institutions and recent Praxis II Exam Scores.

At the request of Rep. Mehlhoff, OPI reported on educators employed in Montana's K-12 public schools who are teaching under a Class 5 Alternative License. The report noted that of the 11,939 FTE teachers, 218 FTE hold a Class 5 Alternative License. The licensees fall into two categories: those who have completed an educator preparation program but who do not meet the requirements for licensure; and those who have not completed an educator preparation program and are working toward licensure.

In March 2012, the Teachers Retirement System Director reported on the status of the system.

#### *LOCAL GOVERNMENT*

### Local Emergency Services Fees

In January, 2012, ELG legal staff submitted a report on local accident response fees, how those fees are handled in various jurisdictions throughout the country, a discussion of "fee" versus "tax", and an analysis of local government authority to impose accident response fees in Montana. The report concluded that the question of whether local governments have the authority to impose accident response fees is unclear and has not been definitively addressed in the Montana Code Annotated or in case law. In the absence of clear authority or a prohibition, it may be concluded that a local government with self-governing powers may impose the fees and a local government with general powers likely does not have that authority.

### Public Safety Communications/Interoperability

At ELG's January, 2012, meeting, the Information Technology Services Division's Statewide Interoperability Coordinator, along with a representative of the Sheriffs and Peace Officers Association, the Lewis and Clark County Sheriff, and a county commissioner discussed public safety radio interoperability, statewide efforts to improve the infrastructure and establish policies, and how local governments have been involved in the development of the program and policies.

### Zoning Protest

Legislators introduced a number of bills during the 2011 session to modify the protest provisions for county-initiated zoning. Zoning protest has also recently been the subject of litigation in Missoula County and Gallatin County.

Section 76-2-205, MCA, provides that if 40% of real property owners or real property owners representing 50% of the titled property ownership taxed for agricultural purposes or as forest land protest zoning, a board of county commissioners may not adopt a zoning resolution for at least 1 year. ELG legal staff reported on the statutory provisions and on the background and outcome of *Gateway Opencut Mining Action Group v. Board of Commissioners of Gallatin County* and *Williams v. Board of County Commissioners of Missoula County*.

### Flooding impacts

Severe flooding during the Spring of 2011 caused significant damage to personal property and infrastructure throughout the state. Representatives of the Department of Military Affairs Disaster and Emergency Services Division provided reports at ELG's June and September, 2011, meetings on the extent of the flooding, flood damage, mitigation efforts, and financial assistance available to property owners and communities that experienced flood-related losses. ELG members were able to ask specific questions relevant to the damage in their districts and the process for applying for assistance.

### Wildland Fire Updates

At ELG's final meeting in September 2012, the Department of Natural Resources and Conservation Forestry Division Administrator reported on the 2012 wildland fire season

and Legislative Fiscal Division staff reported on costs incurred by the state for wildland fire suppression.

In November 2012, LFD staff reported the following cost information to the Legislative Finance Committee:

For FY 2012 the state has incurred \$20.0 million in fire suppression costs, of which \$3.5 million is reimbursable by other parties, creating a net cost to the state of \$16.5 million. The FY 2012 beginning fire suppression fund balance is \$20.6 million, leaving an estimated balance of \$4.1 million for FY 2013.

As of October 17, 2012, the FY 2013 estimated expenses are \$55.2 million, of which \$7.7 million is reimbursable by other parties. The current estimated net cost to the state is \$47.4 million.

The LFD estimates that \$31.4 million will need to be appropriated to cover the state's costs for fire suppression in fiscal years 2012 and 2013.

DNRC's report provided the following 2012 fire season statistics:

- 1,697 fires
- 909,949 acres burned
- 110 homes destroyed
- 94% initial attack success rate

The report also notes that recent investment in severity resources and the provision of new engines and staff in Eastern Montana contributed to the successes and that cooperation among local, state, and federal agencies has been excellent. Continuing problems include firefighter fatigue that results from extended fire seasons, lack of community preparedness, unrealistic public expectations of firefighters, dramatic increases in damage to homes, livestock, crops, and grazing land, and the inability of forest and range landscapes to withstand the severe conditions.

#### Family Transfer Subdivision Exemption

At the committee's September 2011 meeting, Rep. Gary MacLaren asked that the committee add study of the family transfer subdivision exemption to the committee's study of the subdivision for rent or lease exemption requested in HJR 39. Rep. MacLaren presented a letter and exhibits from the Ravalli County Clerk and Recorder discussing the reasons why an examination of the family transfer exemption is warranted. The committee declined to add the exemption to its study but agreed to host a panel discussion on the subject in January. The panel included the Ravalli County Clerk and Recorder, an attorney representing the Montana Association of Counties, and a representative of the Montana Association of Realtors. Staff provided a background report on the statutes governing the exemption, how they have evolved, and how some local jurisdictions handle requests for an exemption. The committee chose to take no



additional action following the panel discussion.

#### Revisions to County/School Budgeting Deadline Legislation

HB 123, enacted by the 2011 Legislature, was the product of work completed during the 2009-2010 interim and requested by that interim's ELG. The bill changed numerous deadlines for school district and county budget submissions. The interim work to develop the legislation involved the Montana Association of Counties, the Department of Revenue, and school finance officials. As counties and schools began to comply with the new law, they identified some areas where further changes were warranted. The Montana Association of Counties suggested the amended language to ELG and indicated that all of the stakeholders who participated in the drafting of the original legislation agreed that the changes were appropriate.

ELG requested HB 47 to implement the changes. The bill was enacted by the 2013 Legislature and signed by the Governor.

#### *OILFIELD DEVELOPMENT IN EASTERN MONTANA*

Rapid growth in population and development in Eastern Montana counties where horizontal oil drilling and associated activities are occurring is having profound impacts on local governments and school systems in those areas. These impacts were an integral part of ELG's discussions with school officials, its deliberations on the HJR 39 subdivision for rent or lease subdivision exemption, and in the information provided on 2-year postsecondary education and workforce training.

In early November, 2011, Rep. Rosendale arranged for legislators to tour affected areas in Montana and North Dakota. Some ELG members participated in that tour, along with numerous other legislators and local officials. Rep. Rosendale reported on the tour at ELG's November meeting. Members of the Energy and Telecommunications Interim Committee also attended the presentation.

In April, 2012, Legislative Fiscal Division staff organized a visit to affected areas in Montana and North Dakota. Two members of ELG participated in that tour, which involved meeting with local school district and local government officials.

The 2013 Legislature considered numerous proposals aimed at dealing with impacts to local infrastructure and school districts.