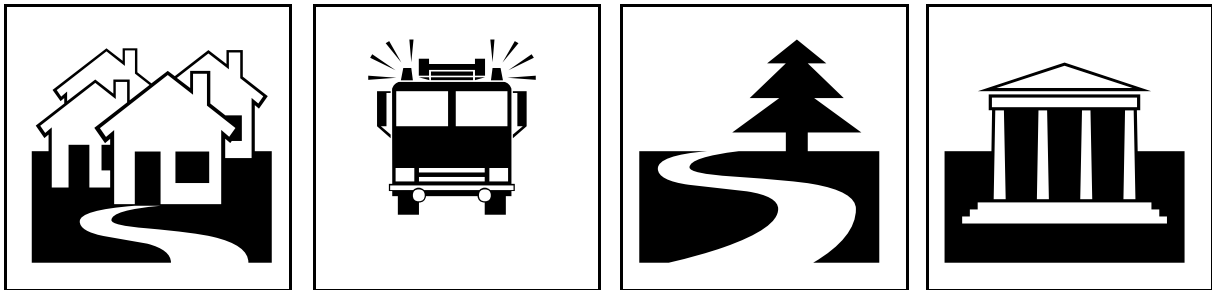


# COMMUNITY SERVICE



Final Report  
of the  
Education and Local Government Interim Committee  
2009-2010 Interim

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# SECTION I

Introduction and Overview  
Summary of Final Recommendations  
ELG Structure





# INTRODUCTION AND OVERVIEW

The city of Helena is a community. So is Garfield County and the unincorporated area of Evergreen, Montana State University-Northern, Lockwood Water and Sewer District, the Hamilton Rural Fire District, and Miles City School District #1. Black's Law Dictionary defines community as "a society or group of people with similar rights or interests." Cities, counties, school districts, units of higher education, and special purpose districts—all with distinct governing structures—exist to serve the similar interests of the people who live in or benefit from them.

By virtue of the statute that created it, the Education and Local Government Interim Committee (ELG) is the Legislature's link to the hundreds of communities organized in Montana to educate children and adults, to finance rural utility services, or to operate a city or county.

In addition to working with the state-level entities that are part of ELG's subject area jurisdiction, the committee has the unique responsibility of regularly interacting with other distinct units of government—communities that are given their authority by the Legislature but may then act independently in immediate and direct response to the needs and interests of the citizens.



Community members attend a legislative hearing. Legislative Services Division staff photo.

Education and local government are two weighty and complex public policy subjects. Associated with each are as many different problems and complications and ideas and solutions as there are sections of the Montana Code Annotated. Each interim, ELG has the monumental task of teasing apart the countless interwoven fibers that make up Montana's communities and identifying the strengths, the flaws, and the role the Legislature may play in fortifying the fabric of Montana.

This document reflects the wide range of activities that ELG engaged in during the 2009-2010 interim, beginning with the end—a list of the committee's final recommendations. A brief

**The Education and Local Government Interim Committee is the Legislature's link to the hundreds of communities organized in Montana to educate children and adults, to finance rural utility services, or to operate a city or county.**

discussion of ELG's statutory duties and how it organized itself and its time follows the recommendations. The Legislative Council assigned two interim studies to the ELG. Reports on those studies are included, along with the bill

drafts the studies generated. ELG assumed several projects directly related to its local government liaison and education-related duties, and summaries of those projects follow the section on interim studies. The appendices include relevant bill drafts and reports, as well as the Shared Policy Goals and Accountability Measures documents upon which ELG and representatives of Montana's education agencies agreed.

# SUMMARY OF FINAL RECOMMENDATIONS

## HJR 32 Study of Historic Preservation

- Require state agencies and the Montana University System (through the Office of the Commissioner of Higher Education) to biennially report to the preservation review board the status and maintenance needs of heritage properties owned and maintained by those entities. (*LC 245; Appendix M*)
- Require the State Historic Preservation Officer to compile the information on the state and University System heritage properties and report to an interim legislative committee, along with any recommendations. (*LC 245; Appendix M*)
- State agencies that manage heritage properties should explore partnerships with non-governmental entities for potential outsourcing of technical assistance programs that would make state dollars directed to heritage activities more effective.

## SJR 2 Study of Community College District Establishment

- Revise process for establishment of community college districts. (*LC 247; Appendix B*)

## SJR 8 and HJR 6 Shared Policy Goals and Accountability Measures

- Recommend the K-12, Montana University Systems, and K-20 agreements. (*Appendices I, J, and K*)

## Other Committee Work

- Revise the timing of county and school district budgeting deadlines. (*LC 246; Appendix H*)

# ELG STRUCTURE AND WORK PLAN

## Statutory duties

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<sup>1</sup>;
  - c. Board of Regents of Higher Education;<sup>2</sup> 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;

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<sup>1</sup> In a 1992 decision, Judge Jeffrey Sherlock of the First Judicial District ruled that the Board of Public Education is vested with constitutional rulemaking authority that is independent of any power delegated to the Board by the Legislature. Any rules adopted by the Board of Public Education are not subject to legislative review. However, in the 2003-2004 interim, the Board requested that the committee review its rules. That may continue to be the case. In addition, SB 152, enacted by the 2005 Legislature, requires the Board of Public Education to submit proposed accreditation standards to the committee. That requirement is discussed in Part II of this paper (Section 20-7-101, MCA, found beginning on p. 3).

<sup>2</sup> The Board of Regents is exempt from the Montana Administrative Procedure Act (2-4-102(2), MCA), so any rules adopted by the Board of Regents are not subject to legislative review.

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 sections 1-2-112 and 1-2-114 through 1-2-116, MCA;<sup>3</sup>

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<sup>3</sup> These sections of the MCA govern the legislative imposition of unfunded mandates on local governments.

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.

### **Work plan and meetings**

The committee adopted a work plan that anticipated six meetings and included the following subjects.

- ▶ Statutorily required administrative rule review
- ▶ Statutorily required review of agency legislation
- ▶ Consideration of fiscal analysis in the event of adoption or amendment of school accreditation standard (Section 20-7-101, MCA)
- ▶ HJR 32 study of historic preservation
- ▶ SJR 2 study of community college district establishment
- ▶ K-12, K-20, and University System Shared Policy Goals and Accountability Measures
- ▶ The Montana Digital Academy
- ▶ Two-year higher education
- ▶ Driver education
- ▶ American Recovery and Reinvestment Act (ARRA) grants to schools and local governments
- ▶ Tax increment finance districts
- ▶ Program reports from the Office of Public Instruction
- ▶ School district and county budgeting timelines
- ▶ Interim zoning
- ▶ Wildland-urban interface in the context of fire mitigation and suppression

## Organization

ELG created one four-member subcommittee to work with participants from K-12 and higher education entities on the Shared Policy Goals and Accountability Measures project proposed in SJR 8 and HJR 6.

In the interest of cross-training and engagement of all 12 ELG members, the full committee took on all of the remaining education and local government-related policy matters listed on its work plan and some it had not anticipated.

## Future Committee Configuration

At its final meeting of the 2009-2010 interim, members of the Education and Local Government interim committee (ELG) discussed ELG's statutory duties, the committee's effectiveness in fulfilling those duties, and possible changes to the committee's membership and configuration.

Following this discussion, ELG voted to request that the Legislative Council consider expanding ELG's membership from 12 to 16 members.

Comments leading up to this recommendation included:

- ▶ The subject areas of education and local government are both becoming more complex.
- ▶ With four additional members on ELG, there would be more opportunities for legislators to serve on interim committees.
- ▶ If its membership was expanded, ELG would divide itself into two eight-member subcommittees—one to focus on education and the other to focus on local government.
- ▶ Meetings of the full 16-member committee would result in members with local government expertise learning about education issues and vice-versa. This kind of legislator education is especially crucial with term limits in effect.
- ▶ It remains important that the interim committee responsible for education policy be involved in discussions with the higher education community regarding higher education policy and budget matters, as well as K-12 policy and budget.

Section 5-5-211, MCA, provides that interim committees consist of eight members, with the option for the Legislative Council to add one or two more from each party if the workload requires. A change in this statute would be necessary, as would a change in the legislative rules.

The Legislative Council considered ELG's recommendation at its September meeting but declined to take action.



## **SECTION II: ASSIGNED STUDIES**

HJR 32 Historic Preservation Study

SJR 2 Study of Community College Establishment



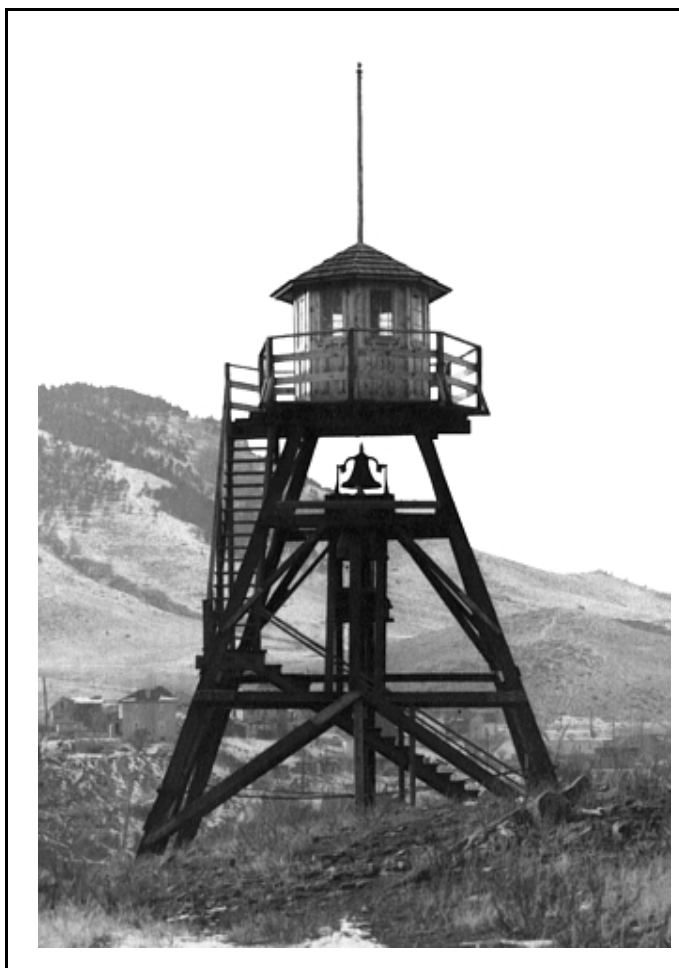
# HJR 32 HISTORIC PRESERVATION STUDY

The Montana Constitution, Art. IX, sec. 4, provides clear direction on management of the state's cultural resources:

**Section 4. Cultural resources.** The legislature shall provide for the identification, acquisition, restoration, enhancement, preservation, and administration of scenic, historic, archeologic, scientific, cultural, and recreational areas, sites, records and objects, and for their use and enjoyment by the people.

In late April 2009, proponents of HJR 32 reminded a Montana Senate committee of the numerous historic and prehistoric treasures that are scattered throughout Montana—sites visited by Lewis and Clark; places where pivotal battles raged between the U.S. Army and the Sioux, Cheyenne, and Nez Perce tribes in the late 19th Century; caves and rock walls where prehistoric people painted scenes of battles and hunting; and buildings, some still standing after more than a hundred years, that housed significant events and sheltered prominent figures in Montana's history.

The same witnesses also told the members of the Senate Local Government Committee that, compared to other states, Montana does not adequately fund its State Historic Preservation Office, nor has it provided consistent long-term funding for the historic preservation programs administered by several different state agencies. Heritage tourism is on the



Helena Fire Tower, 1940. Courtesy of Captain Sean Logan and the Helena Fire Department Archive.  
<http://www.helenahistory.org/>

**Advocates of historic preservation in Montana have noted that one of the barriers to effective preservation and beneficial use of the resources has been an absence of centralized administration of the existing historic preservation**

rise, the proponents said, suggesting that a state that relies heavily on tourism could hitch its wagon to that trend and realize significant economic benefits.

HJR 32 sought to explore solutions to these problems and to analyze the potential economic impacts of appropriate and meaningful compliance with Art. IX, sec. 4, of the state's Constitution, not to mention the numerous state statutes that govern preservation of Montana's heritage.

### **Study Approach**

After weighing the results of the post-session interim study poll conducted to gauge legislator interest in the study resolutions and after considering other studies, statutory duties, and potential emerging issues, the Legislative Council assigned HJR 32 to the Education and Local Government

Interim Committee (ELG) with the recommendation for limited dedication of staff and committee resources. This meant that the sophisticated level of economic analysis envisioned in the study would likely not occur; rather, staff proposed and ELG supported a study strategy that involved gathering information on historic preservation programs administered by state government and how they are funded, examining similar programs and funding mechanisms in other states, and exploring alternative means of administering and funding Montana's programs.

### **Montana Programs and Governing Statutes**

Advocates of historic preservation in Montana have noted that one of the barriers to effective preservation and beneficial use of the resources has been an absence of centralized administration of the existing historic preservation programs. State-run entities that deal with preservation of historic properties on some level are located in the following agencies.

- ▶ Montana Historical Society: State Historic Preservation Office
- ▶ Montana Department of Fish, Wildlife, and Parks: Parks Division Heritage Resources Program
- ▶ Montana Department of Commerce: Montana Main Street Program and Heritage Preservation and Development Commission
- ▶ Montana Arts Council: Cultural and Aesthetic Grants Program
- ▶ Montana Department of Administration: Long-Range Building Program

- ▶ Montana Department of Natural Resources and Conservation: Administers over 5 million acres of state land on which more than 600 heritage properties have been identified

Additional agencies include the Montana Department of Transportation, which has staff that work with preservation of historic and archaeological sites in conjunction with the agency's projects, and the Montana Department of Revenue which administers historic preservation tax credits.

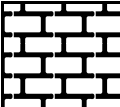
The provisions of the MCA that govern the state programs listed above or that deal in some way with historic preservation are located in the following table.

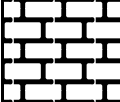
MCA Part Name	Description	MCA Reference
Executive Branch Agencies; Education (Historical Society, Arts Council, Preservation Review Board)	Assigns the Montana Historical Society and the Montana Arts Council to the State Board of Education for purposes of planning and coordination  Administratively establishes Historical Society Board of Trustees; Preservation Review Board; and State Historic Preservation Office	Title 2, chapter 15, part 15
Specific Tax Credits and Tax Checkoffs	Income tax credit for preservation of historic property	Title 15, chapter 30, part 23
Corporation License Tax, Rate and Return	Corporation tax credit for preservation of historic buildings	Title 15, chapter 31, part 1
Coal Severance Tax, General Provisions	Disposal of severance taxes: 1.27% allocated to permanent fund account for parks acquisition and management; .063% allocated to trust fund for cultural and aesthetic grants	Title 15, chapter 35, part 1
Lodging Facility Use Tax, General Provisions	Distribution of tax proceeds: 1% to Montana Historical Society for installation and maintenance of roadside signs and sites; 6.5% to Department of Fish, Wildlife, and Parks for parks maintenance; 67.5% to Department of Commerce	Title 15, chapter 65, part 1
Cultural and Aesthetic Grants	Directs operation of the Cultural and Aesthetic Grant Program; provides grant conditions, application procedure, grant award criteria	Title 22, chapter 2, part 3


MCA Part Name	Description	MCA Reference
Antiquities	Enumerates duties and directs operation of Montana Historical Society State Historic Preservation Office, Preservation Review Board, and—with respect to heritage properties—state agencies; directs state management of heritage properties; requires avoidance and mitigation of impacts to heritage properties; provides for antiquities permits; ties into Montana Environmental Policy Act for evaluation of impacts of projects on heritage properties and paleontological remains; reporting requirements; penalty	Title 22, chapter 3, part 1
Preservation of Records	Creates the state archives at the Montana Historical Society and directs preservation of noncurrent records of permanent value	Title 22, chapter 3, part 2
Local Management of Historic Properties	Local Management of Historic Sites and Buildings Act: intended to encourage restoration, preservation, and maintenance of historic sites by allowing the Montana Historical Society to enter into contracts with local nonprofit corporations for those purposes	Title 22, chapter 3, part 6
Human Skeletal Remains and Burial Site Protection Act	Provides protection from disturbance or destruction all human skeletal remains, burial sites, and burial material; establishes the Burial Preservation Board to be attached to the Department of Administration for administrative purposes; directs involvement of State Historic Preservation Officer; and directs procedure to be followed upon discovery of human remains or burial materials	Title 22, chapter 3, part 8
Repatriation of Human Remains and Funerary Objects	Directs inventory of human remains and funerary objects and directs repatriation process	Title 22, chapter 3, part 9
Heritage Preservation and Development	Establishes the Montana Heritage Preservation and Development Commission for acquisition and management of properties with outstanding historical value—specifically Virginia City and Nevada City; attaches the Commission to the Department of Commerce for administrative purposes	Title 22, chapter 3, part 10

MCA Part Name	Description	MCA Reference
State Parks	Directs the Department of Fish, Wildlife, and Parks' management of state parks, including properties acquired and maintained as monuments and historic sites; governs establishment of primitive parks, many of which are historically significant	Title 23, chapter 1, part 1
Planning and Economic Development, Department of Commerce	Establishes Montana Main Street Program to be operated in conjunction with the National Trust for Historic Preservation to encourage communities to restore and retain historic character of downtown areas, with the goal of stimulating business; provides for Heritage Preservation and Cultural Tourism Commissions organized by local governments and sets out commission duties; allows for local government participation in the National Historic Preservation Act's certified local government programs	Title 90, chapter 1, part 1


Funding for state-administered historic preservation programs varies. The programs' duties and funding mechanisms are described in the following summaries, which ELG reviewed as part of the study. Cathy Duncan, Legislative Fiscal Analyst, and Helen Thigpen, ELG Staff Attorney, contributed to the summaries.


	Montana Main Street Program - Quick Facts
	The Montana Main Street Program is located in the Department of Commerce's Business Resources Division.
	Funding for the program has been one-time-only (OTO) since the program's inception.
	Funding for the current biennium is \$250,000 general fund money freed up by economic stimulus funds and appropriated in HB 645.
	The program was established by the 2005 Legislature (HB 481) and began in July 2005. OTO funding was \$250,000 from the fuel tax revenues.


	Montana Main Street Program - Quick Facts
	<p>According to the Montana Main Street Program's website, its underlying premise is to "encourage economic development within the context of historic preservation. The Main Street approach encourages communities to use their unique assets--distinctive architecture, pedestrian friendly atmosphere, local ownership, and personal services--to rebuild their downtowns. To do so, Main Street focuses on four major areas: Organization, Promotion, Design, and Economic Restructuring, called the Four Point Approach™ ."</p>
	<p>Communities participating in the Montana Main Street Program are considered either Fully Designated Communities or Affiliate Communities. The program's website describes the distinction.</p> <p>Designated Communities must hire at least a part-time paid executive director and must have more than 5,000 residents. Designated communities receive on-site technical training delivered by the National Main Street Center [<i>part of the National Trust for Historic Preservation</i>].</p> <p>Affiliate Communities are those with fewer than 5,000 residents. There is no requirement to hire a paid director. However, affiliate communities do not receive on-site technical training. Instead, the purpose of the affiliate program is to provide educational and networking opportunities for rural communities.</p>
	<p>Fully Designated Communities are Anaconda, Butte, Polson, Red Lodge, Stevensville, Libby, and Livingston. Affiliate Communities are Columbus, Sheridan, West Yellowstone, and White Sulphur Springs.</p>
	<p>Projects highlighted in Fully Designated Communities are examples of the promotion, design, and economic aspects of the program and the functions of the local offices. These include the Stevensville Hotel; Anaconda's Copper King Express (an excursion train running between Anaconda and Butte); Stevensville's Western Heritage Days; Butte's "Lighten Up" project to illuminate the city's historic mine headframes; and a Butte tree planting project to improve the appearance of the entryway streets to the city's historic district.</p>
	<p>Supporters of the Main Street concept emphasize that in providing tools, ideas, and expertise, the program empowers and provides incentives to communities to raise money through grants and local donations rather than rely on taxpayer dollars to fund their projects.</p>


	FWP Heritage Resources Program - Quick Facts
	<p>The Department of Fish, Wildlife, and Parks (FWP) administers a Heritage Resources Program to improve its ability to identify and protect historic and cultural resources in Montana's state parks.</p>





	<b>FWP Heritage Resources Program - Quick Facts</b>
	<p>FWP has conducted numerous excavations in various state parks over the years and usually hired outside consultants to ensure that it complied with the requirements of the Montana Antiquities Act. The Historic Resources Program was established by FWP in 2007 to provide a more centralized method by which it could inventory and protect historic and cultural resources in state parks.</p>
	<p>Through the Heritage Resources Program, FWP collects and manages information on the location and nature of existing resources, ensures that cultural resources are protected during FWP activities, assists with planning and management activities related to cultural resources, and coordinates public outreach and education activities.</p>
	<p>The Heritage Resources Program maintains a Memorandum of Understanding with the Montana Heritage Commission to exchange services, including grant preparation and staff expertise.</p>
	<p>There is a Heritage Resources Program coordinator. In addition, field hands work to maintain and help protect the state's heritage and the parks FWP cares for, such as Bannack, Chief Plenty Coups, Travelers' Rest, First Peoples Buffalo Jump, Rosebud Battlefield, and others.</p>
	<p>FWP's authority to acquire and designate areas, sites, or objects to be held, improved, and maintained as state parks, state recreation areas, state monuments, or state historical sites is located in § 23-1-101, MCA.</p>
	<p>Any person, association, or representative of a governing unit may submit a proposal to FWP for the acquisition of any area or site that should be maintained as a state monument or state historical site. Nominations must be received by July 1 of the year preceding a legislative session. FWP is required to present a list of the areas, sites, or objects that were proposed for purchase through the parks account on the 15th day of any legislative session. Funds must be appropriated by the Legislature before any park, area, monument, or site may be purchased.</p>
	<p>There are currently 53 state parks in Montana and approximately 230 historic and archaeological sites within these parks.</p>
	<p>FWP manages 7 of the 23 National Historic Landmarks in Montana, and 10 state parks are listed as National Historic Places.</p>
	<p>See information on the Long-Range Building Program for additional funding information.</p>


	<b>Montana Heritage Preservation and Development Commission - Quick Facts</b>
	<p>In 1997, the Legislature established the Montana Heritage Preservation and Development Commission to manage, develop, and operate Heritage Commission properties. Under § 22-3-1001, MCA, these are "properties that possess outstanding historical value, display exceptional qualities worth preserving, are genuinely representative of the state's culture and history, and demonstrate the ability become economically self-supporting."</p>
	<p>The legislation that established the Heritage Commission also authorized the purchase of historic properties in Virginia City and Nevada City. In 2001, the Montana Board of Land Commissioners approved through a private donation the acquisition of Reeder's Alley in Helena. The Land Board also approved the acquisition of the Pioneer Cabin in Helena from the Last Chance Gulch Restoration Association.</p>
	<p>The primary purpose of the Heritage Commission is to manage these properties, encourage profitable commercial enterprises, and protect the resources for the benefit of all Montanans.</p>
	<p>The Heritage Commission is attached to the Department of Commerce for administrative purposes.</p>
	<p>The Heritage Commission consists of 14 members. Nine members must be appointed by the Governor, one by the President of the Senate, and one by the Speaker of the House. The requirements for the Governor's appointments are set forth in § 22-3-1002, MCA. The director of the Montana Historical Society, the director of the Department of Fish, Wildlife, and Parks, and the director of the Department of Commerce also serve on the Commission. Members appointed by the Governor serve 3-year terms. Members appointed by the Legislature serve 2-year terms.</p>
	<p>Funding for the Heritage Commission comes from operating revenue, bed tax funds (\$400,000), and 25 cents from an optional car registration fee (approximately \$150,000 in FY 2009). The Heritage Commission also receives funding from leases, private donations, federal grants, and filming fees. The Heritage Commission's operating budget in FY 2009 totaled approximately \$1.7 million.</p>
	<p>The Long-Range Building Program has, in the past, provided funds for preservation and improvement of Virginia City, Nevada City, and Reeder's Alley.</p>
	<p>When purchasing or selling real or personal property, the Heritage Commission must consider a variety of factors, including whether the property represents the state's culture and history, whether the property can become self-supporting, and whether the property can contribute to the economic and social enrichment of the state.</p>
	<p>There is a Heritage Commission Account in both the state and federal special revenue funds. Account money must be used for the purchase of properties in Virginia City and Nevada City, restoration, maintenance, and operation of historic properties in these cities, and purchasing, restoring, and maintaining historically significant properties in Montana that are in need of preservation.</p>

	<b>Long-Range Building Program - Quick Facts</b>
	<p>The Long-Range Building Program (LRBP) is administered by the Department of Administration.</p>
	<p>The program was started in 1963 to provide funding for construction, alteration, repair, and maintenance of state-owned buildings and grounds.</p>
	<p>The program is established in Title 17, chapter 7, part 2, MCA, and was developed to present a single, comprehensive, and prioritized plan for allocating state resources for the purpose of capital construction and repair of state-owned facilities.</p>
	<p>Projects in the LRBP are funded with LRBP funds, state special revenues, federal special revenues, proprietary funds, and when authorized, bond proceeds.</p>
	<p>The program revenue includes distributions of the cigarette (2.6% of total tax) and coal severance (12% of total tax) taxes. Additional income is received from Architecture and Engineering (A&amp;E) supervisory fees and the short-term interest earned on the moneys in the fund.</p>
	<p>In the current biennium, funds from the above listed sources amount to an estimated \$19 million.</p>
	<p>In the past three biennia, the fund has also received transfers of "surplus" general fund with the intent of reducing the state's backlog in building deferred maintenance.</p>
	<p>Revenues in the 2013 biennium are expected to be less than the \$19 million estimated for the 2011 biennium.</p>
	<p>Total appropriations and authority (authority is provided to projects where legislative approval is required by section 18-2-102, MCA, but appropriations would be either duplicative or unneeded; examples include projects for the university system which will be funded with donations and current unrestricted fund and projects in general services division where appropriations are made through the rate process) for the 2009 biennium were \$208.8 million.</p>

	<b>Long-Range Building Program - Quick Facts</b>
	<p>The LRBP has provided funds for several historic preservation projects in recent biennia.</p> <p>2009 Biennium: HB 4 (2007 May Special Session)            Preservation and Improvements, Virginia &amp; Nevada Cities - \$2,000,000 (LRBP Fund)            FWP Parks Program - \$7,750,000 (LRBP, state special, and federal special funds)  <i>The \$7.75 million from the LRBP that the parks division of FWP received in the 2007 session were directed to the fishing access site program, the trails program and the state parks programs in the division. Of the money that went to state parks, a significant portion was used for activities other than heritage preservation.</i></p> <p>Federal special revenues were used for preservation work at Bannack State Park</p> <p>2011 Biennium: HB 5            Historic Preservation and Supporting Improvements - \$750,000 (LRBP Fund)</p> <p>Preservation activities at Virginia and Nevada Cities and Readers Alley, Helena</p> <p>Other historic preservation work includes upgrades and maintenance at historic properties within the university system</p>

	<b>State Historic Preservation Office - Quick Facts</b>
	<p>The State Historic Preservation Office (SHPO), formally established by House Bill No. 785 in 1979, is located within the Montana Historical Society.</p>
	<p>SHPO consists of a historic preservation officer and a qualified professional staff, including historians, architectural historians, historic architects, archaeologists, and administrative personnel. The historic preservation officer is appointed by the Governor from a list of three nominees submitted by the director of the Montana Historical Society.</p>
	<p>The program's primary mission is to work with Montanans to preserve the state's significant historic, archaeological, and cultural places.</p>

	<b>State Historic Preservation Office - Quick Facts</b>
	<p>SHPO administers the Montana Antiquities Act (section 22-3-421, MCA) and the state's participation in the National Historic Preservation Act (16 U.S.C. § 470, et seq.).</p> <p>Montana Antiquities Act: Sets out the responsibilities for SHPO and for state agencies regarding historic and prehistoric sites. State agencies are required to identify and develop methods for ensuring the identification and protection of heritage properties and paleontological remains on state-owned lands.</p> <p>National Historic Preservation Act: Established a national system to protect cultural and historic resources of local, state, national, and tribal significance, including the National Register of Historic Places, the National Historic Landmarks list, and the State Historic Preservation Officers.</p>
	<p>SHPO also provides assistance to the Burial Preservation Board in carrying out its duties under the Montana Human Skeletal Remains and Burial Site Protection Act and the Montana Repatriation Act.</p>
	<p>The historic preservation officer's duties include but are not limited to following the necessary procedures to qualify the state for federal historic preservation dollars and conducting an ongoing statewide survey to identify and document properties that are significant in American history, architecture, archaeology, or culture.</p>
	<p>SHPO is funded through a combination of general funds, federal special revenue from the National Park Service, and proprietary funds.</p>
	<p>For the current biennium, SHPO received \$130,595 from the general fund, \$1,125,867 in federal special funds, and \$7,907 in proprietary funds for a total of <b>\$1,264,369</b>.</p>

	<b>Cultural and Aesthetic Grants Program - Quick Facts</b>
	<p>The Cultural and Aesthetic Grant Program (C&amp;A) is administered by the Montana Arts Council.</p>
	<p>The C&amp;A program is established in Title 22, chapter 2, part 3, MCA, and was developed for the protection of works of art in the State Capitol and other cultural and aesthetic projects.</p>
	<p>Projects in the C&amp;A program are funded with the investment earnings from a statutory trust, which is built with and receives coal severance tax revenues.</p>
	<p>The C&amp;A trust receives a statutory 0.63% of coal severance tax revenues, and the interest and earnings from the trust support the grant activities of the program.</p>
	<p>In the current biennium, interest and earnings from the trust were estimated to be \$1.3 million.</p>

	Cultural and Aesthetic Grants Program - Quick Facts
	Interest and earnings in the 2013 biennium are expected to be similar to the amount estimated for the 2011 biennium.
	The total grant appropriation for the 2011 biennium was \$885,400 and funded 97 grant awards.
	The administrative costs of the grant program are also funded with the trust interest and earnings.
	Grants are provided in five categories including Special Projects less than \$4,500, Special Projects greater than \$4,500, Operational Support Projects, Capital Expenditure Projects, and "Challenge Grants".
	Grant applications are reviewed by a 16-member committee, the Cultural and Aesthetic Projects Advisory Committee, 8 of whom are appointed by the Montana Historical Society and 8 appointed by the Montana Arts Council. This committee submits funding and ranking recommendations to the Legislature, and the Legislature makes all final funding decisions.
	The Montana Arts Council has no ranking, recommendation, or decisionmaking authority over any of the grants.
	In addition to the projects in the table below, the Cultural Trust provides operating and special project support for historic preservation organizations such as the Upper Swan Valley Historical Society, the Carbon County Historical Society, the Western Heritage Center in Billings, the World Museum of Mining, the MonDak Heritage Center in Sidney, the Montana Preservation Alliance, the Montana Historical Society, and many others.
	The C&A grants program funds historic preservation projects in the 2011 biennium in the capital expenditure category. Some examples are shown in the table below.

Project Name	Project Sponsor	Biennium	Total Cost	Grant Request	Grant Authorized	Past Grants (cumulative)
Condition Assessment & Repair of Moss Mansion	Billings Preservation Society	2011	\$535,883	\$54,926	\$12,000	\$13,526
Windows Restoration- Repair	Meagher County Historical Assoc.	2007	\$66,326	\$4,500	\$4,500	\$0
Roof, Siding & Basement Renovation	Liberty Village Arts Center & Gallery	2007	\$49,500	\$12,375	\$6,900	\$17,775

## HB 645

Another means of funding historic preservation—albeit on a one-time-only basis—appeared during the 2009 legislative session. HB 645, signed by the Governor on May 14, 2009, implemented the federal American Recovery and Reinvestment Act (ARRA) for Montana. It appropriated federal funds and state general fund money freed up through the receipt of federal dollars. Dozens of programs received funding through the bill, along with specific instruction on program operation.

The Legislature set aside \$3.6 million for competitive historic preservation grants and, in the narrative establishing the program, recognized both the potential economic benefits of historic preservation and the value of the state's heritage.

The item for Historic Preservation Competitive Grants is for the awarding of grants to public or private entities for the preservation of historic sites within the state of Montana based on competitive criteria created by the department, as guided by the Legislature, that may include:

- (1) the degree of economic stimulus or economic activity, including job creation and work creation for Montana contractors and service workers;
- (2) the timing of the project, including the access to matching funds if needed and approval of permits so the work can be completed without delay;
- (3) the historic or heritage value related to the state of Montana;
- (4) the successful track record or experience of the organization directing the project; and
- (5) the expected ongoing economic benefit to the state as a result of the project completion.

HB 645 had (and continues to have) its detractors. Fundamental philosophical differences about how to strengthen the economy and what government should look like ignited lengthy debates as the bill progressed. Whether or not the economic stimulus strategy embodied in ARRA and in HB 645 proves to have been successful in the long run, communities that received historic preservation grants put those dollars—and local contractors--to work straightaway on some interesting projects.

Of the 135 applicants who requested over \$20 million in funding for historic preservation projects, 56 received grants ranging from \$13,509 for the Wibaux House to \$161,174 for the Rialto Theater in Deer Lodge. A full listing of projects that received grant funding is included as Appendix A. Montana was the only state to have directly applied economic stimulus money to historic preservation grants.

## National Perspective

States use a variety of means to fund historic preservation and encourage cultural and heritage tourism. All 50 states have a State Historic Preservation Officer<sup>4</sup>. Forty-two states, including Montana, have laws providing some measure of protection for cultural resources and heritage properties. However, organization and administration of historic preservation programs, funding for those programs, and sources of grant funds vary widely across the country.

**Organization and administration of historic preservation programs, funding for those programs, and sources of grant funds vary widely across the country.**

Some of the funding sources that states apply to administration of historic preservation programs and grant awards include lotteries, real estate transfer taxes, license plate fees, bonds, gaming taxes, and interest from state investments.

The states of Texas, Colorado, and Oregon are examples of robust, successful historic preservation programs that work diligently to promote heritage tourism, according to information provided to ELG at its March 2010 meeting by Barbara Pahl, Director of the National Trust for Historic Preservation's Mountain-Plains Region.

Oregon and Texas sponsor historic trails programs aimed at identifying and preserving trails for locals and visitors alike. Texas and Colorado place particular emphasis on heritage tourism<sup>5</sup>, as does Oregon—its Historic Preservation Office is located in the state Parks and

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<sup>4</sup> The 1966 National Historic Preservation Act provided for the establishment of SHPOs and directed that the federal share of funding come from offshore oil and gas leases. The original federal contribution was to be \$150 million; however, that commitment has never been fully realized. In the latest budget, \$54.5 million is identified for the state programs, according to information provided to ELG by the National Trust for Historic Preservation.

<sup>5</sup> The following statements are included in the Texas Historical Commission's Strategic Plan, Fiscal Years 2011-2015.

- Since 1997, the Texas Heritage Trails Program has facilitated development of 10 heritage regions and 10 regional organizations, and all 254 counties are receiving tourism assistance
- In the past 10 years more than 715 cultural and heritage sites have been evaluated for tourism readiness and received written recommendations. Ten regional travel guides and five thematic travel guides have been developed.
- Ten heritage region websites have been developed and continue to promote cultural and heritage sites within those heritage regions.
- In the past 10 years, the heritage regions to fund their operations have raised more than \$379,000 in regional cash contributions.
- More than \$663,000 in in-kind contributions has been generated in the 10 heritage regions to fund their operations.



Recreation Department. Texas is among a handful of states with a specific program focused on restoration of historic courthouses<sup>6</sup>.

In Colorado, an ongoing source of money for historic preservation grants is the State Historical Fund, created by a 1990 amendment to the Colorado Constitution that allowed limited gaming in the towns of Cripple Creek, Central City, and Black Hawk and directed use of the gaming tax revenue. According to Colorado's Office of Archaeology and Historic Preservation:

Funds are distributed through a competitive process and all projects must demonstrate strong public benefit and community support. Grants vary in size, from a few hundred dollars to amounts in excess of \$200,000. The Fund assists in a wide variety of preservation projects including restoration and rehabilitation of historic buildings, architectural assessments, archaeological excavations, designation and interpretation of historic places, preservation planning studies, and education and training programs.

Sources of the Texas Historical Commission's budget include the state general fund, bond proceeds, a sporting goods sales tax, fees from historical sites, interagency contracts, and federal sources. The Colorado Historical Society, located within the Colorado Department of Higher Education, receives gaming tax revenue, federal grants, and earned income. And in Oregon, lottery proceeds, park user fees, RV/ATV registrations, and proceeds from the state fair are the major funding sources for the state's Parks and Recreation Department.

## Findings and Recommendations

Having considered a wealth of information on the current state of historic preservation in Montana and elsewhere and having discussed various strategies for improving management of state heritage resources, ELG endorsed the following findings.

1. ELG recognizes the value of the state's rich historical legacy and outstanding heritage assets.

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<sup>6</sup> The Texas Historical Commission Strategic Plan states that the "Texas Historic Courthouse Preservation Program has generated more than \$150 million in local match from participating counties, 8,579 jobs, \$238,370,081 in income, and \$325,274,262 in gross state product."

HB 663, introduced in 2007 by Rep. Dan Villa; HB 614, introduced in 2005 by Rep. Chris Harris; and HB 357, introduced in 2003 by Rep. Chris Harris sought to establish a county courthouse restoration program in Montana. They all failed.

2. Preservation of heritage properties is directly linked to maintaining quality of life and community identity.
3. The state of Montana is responsible for maintaining the heritage properties owned by the state and managed by its agencies on behalf of the public.
4. Proper maintenance of state-owned heritage properties cannot be achieved in the absence of a comprehensive inventory of the properties owned and managed by the state and assessment of the properties' status.
5. Impact studies from around the country demonstrate that historic preservation creates skilled jobs and stimulates local and state economies.
6. Because historic preservation policies and programs are located throughout state government in various agencies, coordination and planning among those agencies is critical to building a collaborative vision for maintaining heritage properties and maximizing the effectiveness of the programs.
7. Public and privately-owned heritage properties throughout the state are in desperate need of restoration and maintenance work, as evidenced by the \$20 million worth of requests for \$4 million in HB 645 grant funding.
8. Many other states fund preservation programs and grants through a variety of funding mechanisms. These funds are critical to the preservation of heritage buildings and retention of culturally significant sites.
9. Montana's historic properties would benefit greatly from some level of state support. Beyond preservation of Montana's unique historic places, these investments would help to stimulate local economies in towns across Montana.

## **Recommendations**

A potential structural budget gap hovering near the \$400 million mark cast a shadow over the deliberations of all of the 2009-2010 interim committees, and ELG was no exception. Recognizing this, the committee issued recommendations for implementation that members believed would not strain state agency operations or budgets.

1. Require state agencies and the Montana University System (through the Office of the Commissioner of Higher Education) to biennially report to the preservation review

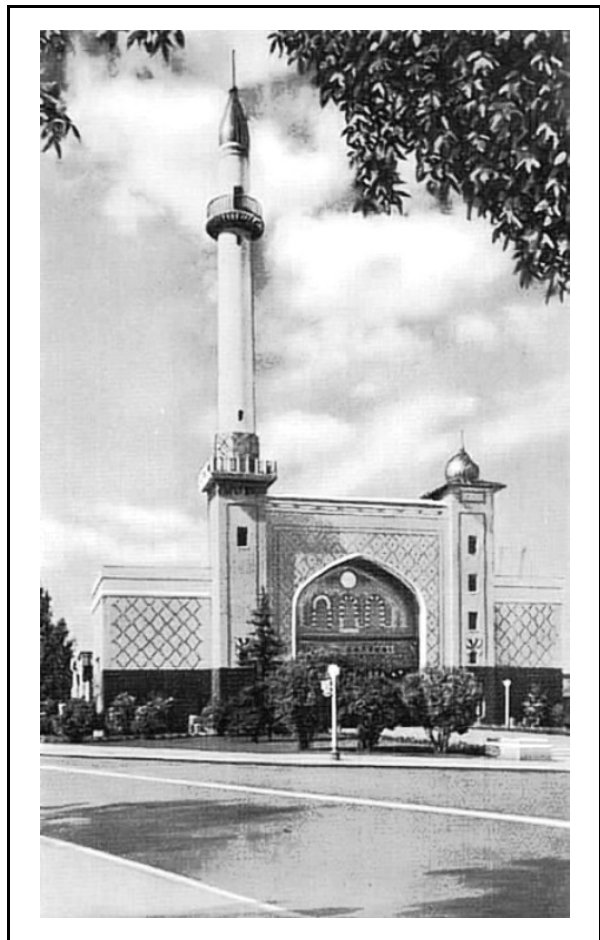
board the status and maintenance needs of heritage properties owned and maintained by those entities. (Source: Sen. Hawks motion at June 10, 2010, ELG meeting; bill draft: LChj32)

2. Require the State Historic Preservation Officer to compile the information on the state and University System heritage properties and report to an interim legislative committee, along with any recommendations. (Source: Sen. Hawks motion at June 10, 2010, ELG meeting; bill draft: LChj32)
3. State agencies that manage heritage properties should explore partnerships with non-governmental entities for potential outsourcing of technical assistance programs that would make state dollars directed to heritage activities more effective.

### Recommendations for ongoing consideration

ELG recommended that the 2011-2012 interim committee having the appropriate subject area jurisdiction continue to explore ways to strengthen historic preservation in Montana and that the following be among the considerations.

1. Including the Main Street program in the Department of Commerce budget, rather than continuing to rely on one-time-only funding.
2. Expanding the state historic preservation tax credit.
3. Requesting that the Department of Commerce, through its travel and tourism promotion functions, place more focus on heritage tourism.



Postcard of the Helena Civic Center, 1940s.  
<http://www.helenahistory.org/>

4. Exploring use of Treasure State Endowment Program funding and other potential funding sources in establishment of a Preservation Grants Fund.
5. Commissioning a comprehensive analysis specific to Montana of economic impacts of tax credits and other historic preservation efforts, similar to a report issued in March 2010 by researchers with the Rutgers University Edward J. Bloustein School of Planning and Public Policy. The report, entitled "First Annual Report on the Economic Impact of the Federal Historic Tax Credit", examined the origins and impacts of the credit, providing "quantitative and qualitative information regarding the economic and other benefits of the federal HTC (e.g., providing affordable housing and spurring downtown revitalization); . . ." The report includes such specific data as Gross Domestic Product, jobs created, and income created by sector nationwide as a result of the credit.
6. Exploring consolidation of some state heritage programs—such as SHPO, Montana Heritage Commission, Travel Montana, Main Street, FWP—to avoid redundancy and ensure greater effectiveness.

The simple reality is that many of the proven strategies to bolster historic preservation and provide for restoration, maintenance, and development of heritage properties in any meaningful way cost money, and the demands on the state's budget are enormous. In addition, vigorous disagreements persist over how and where taxpayer dollars should be directed. ELG's recommendations recognize the limitations of the state budget, while encouraging further investigation into ways the state can preserve and protect these unique treasures for their intrinsic value as well their potential role in building Montana's economy.

# SJR 2 STUDY OF COMMUNITY COLLEGE ESTABLISHMENT

Contributed by Jeremy Gersovitz, ELG staff attorney

Among the recommendations offered by the 2007-2008 Education and Local Government Interim Committee was legislation to deal with problems that had arisen regarding the process for approving a new community college district.

In 2006, a group of Bitterroot Valley residents had proposed the establishment of a new community college district in Ravalli County. By 52% to 48%, eligible voters approved the creation of the community college district and elected seven trustees for the proposed district. The results were certified by the Board of Regents on July 11, 2007. But while the laws that set out the procedure for creating a new community college had existed since 1971, they had never been used to their final conclusion. A Montana Attorney General's Opinion from February of 2007 brought the issues swirling around the establishment process into sharp focus. In his opinion, Attorney General McGrath held that:

- ▶ the Legislature has the final authority to approve the creation of a new community college district;
- ▶ this approval occurs after the approval by the local voters but before the Board of Regents issues its organizational order; and
- ▶ the Board of Regents is required to make a recommendation.

The "approval" issue dates back to 1971, when SB 236 amended the 1965 community college legislation to require that the proposed community college districts be approved by the Legislature upon the Regents' recommendation. This provision is codified at Title 20, chapter 15, of the Montana Code Annotated. Missing from this bill, however, was language setting out the timing of the approval or the means of legislative approval.

So SB 41, introduced in 2009 by Senator Dave Lewis at the request of ELG, sought to clarify the process for organizing a community college district. It would have put into statute what the Attorney General had decided relative to the approval process—specifying that the Legislature's approval would be by a joint resolution and that whether the Board's recommendation was positive or negative was not binding upon the Legislature, which had the final say. The bill accrued an impressive voting record: 9-0 in executive action in the Senate Education and Cultural Resources committee followed by a vote of 48-0 on Second Reading and 50-0 on Third Reading. Ultimately, however, on March 4, 2009, the bill was tabled by the House Education Committee.

Also rejected during the 60th Legislative Session was Senator Rick Laible's SJR 12, which would have given the Legislature's stamp of approval to the Bitterroot Valley Community College District. On February 19, 2009, this joint resolution to approve the district was tabled in the Senate's Education and Cultural Resources Committee on a 5-4 vote. This came on the heels of members of the Board of Regents' December 4, 2008, vote against approval of the new community college district in Ravalli County. At the same time, the Board asked the Office of the Commissioner of Higher Education (OCHE) to work with the trustees-elect and with representatives of ELG's Postsecondary Education Policy and Budget Subcommittee to establish what they characterized as an innovative two-year education model in Ravalli County. The Board noted that there were already 15 two-year colleges in the state with one only 50 miles away from the proposed site. The Board was also put off by the thought of duplicating a bricks and mortar-intensive 20th century model given the potential of 21st century technologies.

**The Education and Local Government Interim Committee directed staff to work with Office of the Commissioner of Higher Education on a bill draft revamping the community college**

Legislators endorsed Senator Lewis' SJR 2 in 2009. But this joint resolution requesting an interim study to reexamine the community college establishment process and to report the results to the 62nd legislature received a relatively low ranking in the prioritization poll conducted after the session. As a result, Legislative Council recommended, and ELG authorized, the dedication of limited staff

and committee time to the project.

In June of 2010, ELG directed staff to work with OCHE on a bill draft revamping the community college establishment process. After consultation with OCHE and a few draft revisions, a final product emerged that ELG unanimously endorsed at its final meeting in August 2010.

LC 247 (LC 9995, Appendix B), an ELG committee bill, provides that:

- the county commissioners would run and pay for the elections, not the Board of Regents and the elementary districts;
- the county commissioners and the Board of Regents would consider and vote on the community college proposal before it reached the Legislature, and then a second popular vote (the first having occurred when at least 20% of registered electors signed

the citizen petition in order for it to go to the county clerk and recorder for verification) would occur after the Legislature's decision (should it be a positive one); and

- voters would be notified at three different points in the process of the estimated cost to them of the mandatory tax levy to fund the proposed district.

Members also requested amendatory language suggested by Representative Bob Lake to deal with a proposed district being located in more than one county.





## SECTION III

Local Government Liaison Activities

Education Policy

Conclusion



# LOCAL GOVERNMENT LIAISON ACTIVITIES

## Wildland-urban interface

Severe wildfire seasons in the last decade and the accompanying multi-million dollar costs to state government have prompted the Legislature to examine state agency, local government, and private property owner responsibility with regard to development in the wildland-urban interface (WUI)<sup>7</sup>. See Appendix C for a timeline showing key points in the development of WUI policy.

As the legislative interim committee charged with providing a forum for local government/citizen dialogue, ELG followed the implementation of SB 51 (2007) and SB 131 (2009), two bills intended to help mitigate dangers to citizens and firefighters in the WUI, reduce property losses, and stem the escalating costs of fire suppression. See Appendix D for a discussion of SB 51 and SB 131.

ELG's agendas included staff analysis of the legislation and regular presentations from the Department of Natural Resources and Conservation and the Department of Labor and Industry (DLI) on those agencies' efforts to complete the rulemaking and other requirements directed by the legislation. ELG also received considerable testimony from local government officials and from members of the public.

The majority of the discussion centered around property owners' fear that local governments and state agencies would interpret the legislation in ways that would lead to excessive regulation of private land. Of particular concern were the rules<sup>8</sup> that SB 51 required the DLI to develop.

In June, ELG asked DLI to postpone final adoption of the rules on the grounds that many communities were still in the process of creating maps to delineate the wildland-urban interface and that the implementation of the rules developed by the DLI and subsequently used by a local government in its subdivision regulations would be premature until those maps have been completed and adopted by the local governments.

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<sup>7</sup> The definition of the WUI most commonly used is found in the National Wildfire Coordinating Group's *Glossary of Wildland Fire Terminology*: "The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels."

<sup>8</sup> MAR Notice 24-320-245, implementing Ch. 443, L. 2007 (SB 51).

DLI consented to postpone adoption and worked with ELG at its August meeting to arrive at language to clarify that the rules are to be considered "best practices" only and are not to be considered part of the state building code. Final adoption of the rules with the "best practices" language is expected in the fall of 2010. The Amended Notice is included in this report as Appendix E.

## Interim zoning

Boards of county commissioners have the authority to determine that an emergency measure is needed to "promote the public health, safety, morals, and general welfare" of its citizenry and establish interim zoning regulations, which may be in effect for 1 year. How the local government goes about establishing regulations and the opportunities for input that are afforded property owners in a proposed district are subjects of debate among realtors, developers, builders, counties, and Smart Growth advocates. Key players in that debate participated in a panel discussion before ELG at its December 2009 meeting.

Prior to the discussion, LSD staff attorneys briefed the members on how other western states treat interim (or "emergency") zoning; recent Montana Supreme Court decisions on interim zoning disputes: *Fasbender v. Lewis and Clark Co.* and *Liberty Cove, Inc. v. Missoula Co.*; an analysis of compensatory takings; and an analysis of due process considerations in zoning.

Panel participants each answered questions provided to them in advance of the meeting. Questions included:

- ▶ What do you see as the purpose of interim zoning?
- ▶ What are a couple examples of emergency situations that you believe should prompt a board of county commissioners to propose an interim zoning district or interim zoning regulations in order to "promote the public health, safety, morals, and general welfare"?
- ▶ Other than including a protest provision, if you believe one is appropriate, does section 76-2-206, MCA, need to be amended? Why?
- ▶ Do you believe protest should be provided for when an interim zoning district or regulation is proposed? Should it mirror the protest provisions in section 76-2-205 or should there be a different process when a board of county commissioners proposes interim zoning? What should that process be?
- ▶ If you oppose providing for protest for interim zoning, do you have suggestions for compromise language or suggestions for some form of limited protest or protest with a short time limit?
- ▶ Should the criteria for what constitutes an emergency be clarified?

There were areas of agreement among the panelists and possibilities for compromise, but two divergent schools of thought emerged in responses to the questions about protesting a county's intent to establish interim zoning regulations.

1. Section 76-2-206, MCA, amended in 2009 to include notice and public hearing provisions, should be allowed to work for a few years without additional changes, and including a protest provision for interim zoning would gut the intent and functionality of the law.

-and-

2. While the amendments made to section 76-2-206, MCA, are a positive step forward, additional measures should be taken to provide potentially affected landowners with the opportunity to protest and delay implementation pending more study, or a unanimous decision by the commissioners should be required to implement interim zoning regulations.

## **HB 645 Local Government Grants**

HB 645 provided \$10 million in infrastructure grant funding for counties and \$10 million for cities and towns. The Department of Commerce, charged with administering HB 645 grants to local governments, reported to the committee regularly on the grant application, ranking, and awards processes.

The lists of disbursements are included in this report as Appendices F and G.

## **School district and county budgeting timeline project**

Contributed by Jeremy Gersovitz, ELG Staff Attorney

The school districts and county budget timelines bill, now officially denominated LC 246 (*LC 9994, Appendix H*), began life in the 60th Legislature in another incarnation as SB 165, introduced by Senator Dave Lewis. SB 165 died on a Second Reading "do not pass" vote (48 to nothing) on January 22, 2009.

At the behest of the Montana Association of Counties (MACo), ELG directed staff to craft a new bill draft to iron out the wrinkles in SB 165 that had doomed it to failure. Senator Kelly Gebhardt and Representative Edith McClafferty agreed to represent the committee as negotiations among stakeholders got underway.

At base, the bill aimed to increase the time period for counties to report to the Department of Revenue (DOR) the number of mills to be levied, extending it until the later of the third Monday in September or 45 days from the date the counties receive certified taxable values. There was, however, no accompanying expansion of time for the DOR to do its job of completing the computation of the amount of taxes, fees, and assessments to be levied against the property in a county and then notifying the county clerk and recorder and treasurer by the statutory second Monday in October.

**At base, the bill aimed to increase the time period for counties to report to the Department of Revenue (DOR) the number of mills to be levied.**

The first draft of the bill, dubbed LC 9998, went out to interested stakeholders (including numerous county finance staff and local school business personnel) on February 26, 2010.

The DOR, the Montana Association of County School Superintendents, and the Gallatin County Finance Director all commented. Originally it was thought that all of the suggestions could be incorporated into a second draft that would be subject to another round of comments before a final draft was completed. Ultimately, due to the nature of what was at stake—time to do a crucial job—that was not an option.

At its June 10, 2010, meeting, staff presented ELG with two bill drafts to consider: LC 9997, which represented the ideas offered by the state Association of County School Superintendents, and LC 9996, which represented the DOR's suggestions.

Under existing law, the date for the governing body to fix the tax levy is the later of the second Monday in August or within 45 calendar days after receiving certified taxable values. Under LC 9997, the county superintendents wanted the date moved to the later of the second Monday in September or within 45 calendar days after receiving certified taxable values.

Under LC 9996, the DOR preferred that the date be changed to the later of the first Monday in September or within 30 calendar days after having received certified taxable values.

With section 15-10-305, MCA, the dates for the reporting of the mill levy by the clerk and recorder, a similar amendment was proposed by the DOR. Under existing law, the date is by the third Monday in August. Under LC 9997, it would be moved to the third Monday in September or within 45 calendar days after receiving certified taxable values. In LC 9996 the

DOR suggested the second Monday in September or within 30 calendar days after receiving certified taxable values.

The committee heard presentations from Harold Blattie, Montana Association of Counties, Alan Peura, DOR, and Jeremy Gersovitz, staff attorney. The committee also listened to the concerns of Lynda Brannon, Montana Association of School Business Officials. Ultimately, Sen. Gebhardt made a motion to direct staff to proceed with a redraft of LC 9996, which passed unanimously.

Two additional stakeholder meetings took place, on August 10 and 13, 2010. Ultimately a new bill emerged: LC 9994. The bill moved the date by which the county superintendent has to report the levy requirements to the county commissioners from the fourth Monday in August to the first Tuesday in September. The county commissioners would have until the first Thursday in September instead of the second Monday in August to fix the tax levies. And finally, the County Clerk and Recorder would have until the second Monday in September—instead of the third Monday in August—to report the mill levies to the DOR.

At its final meeting on August 16, 2010, committee members again heard presentations from Mr. Gersovitz, Mr. Peura, and Mr. Blattie, as well as comments from Lewis and Clark County Superintendent of Schools Marsha Davis; Ms. Brannon; Office of Public Instruction Administrator Denise Ulberg; and Bob Vogel, Director of Governmental Relations, Montana School Boards Association.

Since it had given up so much time from the period it needs to do its job (reduced from 56 days to 28 days), the DOR asked the committee for a penalty provision, something along the lines of 10% of the previous year's budget, to compel compliance with the deadline on the part of counties. On August 17, after considerable debate about whether to include a penalty provision, ELG voted unanimously to approve Senator Jim Peterson's motion to proceed with LC 9994 as a committee bill draft. A motion by Sen. Bob Hawks to include a penalty failed on a 9-3 vote.

# EDUCATION POLICY

## Shared Policy Goals and Accountability Measures Subcommittee

Two resolutions passed by the 61st Legislature sought to foster cooperation and communication between the Legislature and education agencies. HJR 6, sponsored by Rep. Bob Lake, urged K-12 education agencies to develop shared policy goals and accountability measures in consultation with the ELG. SJR 8, sponsored by Sen. Bob Hawks, urged K-20 education agencies to develop shared policy goals and accountability measures in consultation with ELG.

ELG created a four-member subcommittee to carry out the provisions of the resolutions on the committee's behalf. Rep. Lake served as chair of the subcommittee, which also included as participants representatives of the Office of Public

**Two resolutions passed by the 61st  
Legislature sought to foster  
cooperation and communication  
between the Legislature and education**

Instruction, the Board of Public Education, the Office of the Commissioner of Higher Education, the Board of Regents of Higher Education, and the Governor's Office.

Between subcommittee meetings, which were generally held the day before the full committee's meetings, Legislative Services Division and Fiscal Division staff met regularly with the participants of the education agencies to discuss ideas and develop language.

The final products are included as Appendices I, J, and K.

As evidenced by the agreements, the subcommittee—in deliberations among its membership, and with the full committee—handled wide-ranging education policy matters. Additional education policy information provided through presentations and discussions is summarized below.



## Montana Digital Academy

HB 459, enacted by the 2009 Legislature, created and funded the Montana Virtual Academy<sup>9</sup>. The bill, sponsored by Rep. Wanda Grinde, provided that the purposes of the Academy were to:

- ▶ make distance learning opportunities available to all school-age children through public school districts in the state of Montana;
- ▶ offer high-quality instructors who are licensed and endorsed in Montana and courses that are in compliance with all relevant education and distance learning rules, standards, and policies; and
- ▶ emphasize the core subject matters required under the accreditation standards, offer advanced courses for dual credit in collaboration with the Montana university system, and offer enrichment courses.

A line item in HB 645 provided \$1 million in funding for the program. Representatives of the Academy's governing board appeared before ELG regularly during the interim to update members on the program's implementation and development of policies and guidelines.

## Quality Educator Shortages

Section 20-4-503, MCA, requires the Board of Public Education, in consultation with OPI, to identify:

- (a) specific schools that are impacted by critical quality educator shortages; and
- (b) within the schools identified in (a), the specific quality educator licensure or endorsement areas that are impacted by critical quality educator shortages.

A Critical Quality Educator Shortages report prepared by OPI for the Board of Public Education and presented to ELG at its December 2009 meeting identifies the schools, licensure, and endorsement areas impacted by critical quality educator shortages and discusses OPI's methodology for scoring the needs of schools.

The scoring is based on three factors: rural isolation, economic disadvantage, and low student achievement. The factors are then weighted to establish the threshold for what may be identified as an "impacted school".

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<sup>9</sup> The Academy was renamed the Montana Digital Academy.

For the 2011 biennium, the Legislature appropriated almost \$2 million for quality educator loan assistance. This program provides for the direct repayment of educational loans of eligible quality educators for up to 4 years.

## **Board of Public Education Rules and Fiscal Analysis**

Section 20-7-101, MCA, states:

**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.

The intent of the language in subsections (2) and (3) was to establish a process for the Legislature—as the body required by the Constitution to fund a basic system of free quality education—to analyze costs associated with minimum standards for schools. Complications arose, however, with the timing of the process.

In May 2009, the Legislative Fiscal Division received notice of a hearing on proposed Board of Public Education (BPE) rules to amend public school mathematics content standards and performance descriptors. At its first meeting in June 2009, ELG requested a fiscal analysis of the proposed standards to be prepared and presented at its next meeting, scheduled for October. At a September meeting, BPE adopted the mathematics content standards and performance descriptors, stressing the importance of having the standards in place for the 2009-2010 school year. Legislative Fiscal Division staff notified the BPE that completion of a fiscal analysis was pending and that ELG had not yet been notified of the results.

In a September 2009 memo to ELG, LFD staff highlighted the problems with implementation of section 20-7-101, MCA, and posed the following questions:

- ▶ Under what, if any, conditions should the Legislature grant authority to the Board of Public Education to proceed without a determination of the fiscal impact of the adoption or amendment of accreditation standards?
- ▶ How long should the Board of Public Education's action on rules be delayed for a review to take place?
- ▶ How shall notification of the LFD and ELG action be conveyed to the board and by whom?
- ▶ Does the Legislature wish to designate a legislative [standing] committee for the Board of Public Education to submit changes to accreditation standards [when the Legislature is in session and interim committees are not operating]?

In a December 2009 letter to ELG, BPE's executive director stated that section 20-7-101, MCA, is "devoid of implementation language respecting timelines, leaving a process to be defined by the Board and the legislature." The letter also notes that had BPE been aware of the pending fiscal analysis, it could have adopted the rules but delayed implementation if it was determined that the standards would have a fiscal impact.

The fiscal analysis of the particular mathematics standards that triggered the discussion concluded that there would not be a fiscal impact, but staff of the LFD, LSD, OPI, and BPE met on several occasions to develop an approach to appropriate compliance with section 20-7-101, MCA. The staff determined, and ELG agreed, that a change in the statute would not be necessary. The table below, prepared by Kris Wilkinson, LFD fiscal analyst, illustrates the procedure to which the participating parties agreed.

Process for Fiscal Analysis of Proposed Accreditation Standards Board of Public Education Meetings			
	BPE Meeting 1	BPE Meeting 2	BPE Meeting 3
	<i>Information</i>	<i>Notice of Proposed Rulemaking</i>	<i>Adoption of Rule</i>
Prior to meeting:	BPE sends letter to the ELG to communicate the planned process and timeline for adoption of the content and performance standard.		BPE holds public hearing to receive input on the proposed standards.

Process for Fiscal Analysis of Proposed Accreditation Standards Board of Public Education Meetings			
	BPE Meeting 1	BPE Meeting 2	BPE Meeting 3
At Meeting:	OPI presents cost assumptions to BPE along with draft version of standards.	Any revisions of proposed standards and cost assumptions are presented to BPE. BPE approves notice of proposed rulemaking, which begins the formal rulemaking process.	LFD fiscal analysis is presented to BPE.
Meeting Follow-up:	BPE sends letter to ELG with draft cost assumptions. ELG requests LFD analysis.	LFD prepares its fiscal analysis of the proposed rule.	If the proposed standard is substantially changed from the version in the Notice of Proposed Rulemaking, the LFD will revise its analysis and present its conclusions to BPE in a conference call prior to the next scheduled BPE meeting.

**Two-Year Education Initiative: Making Opportunity Affordable**

Early in the interim process, ELG members expressed interest in learning about the Office of the Commissioner of Higher Education's (OCHE) two-year education initiative. The Office of the Commissioner of Higher Education's Deputy for Two-Year Education presented a series of facts about this component of higher education and outlined OCHE's initiative, called Making Opportunity Affordable.

Some of the facts provided<sup>10</sup> include:

- There are 15 two-year colleges in Montana—5 colleges of technology; 3 community colleges; and 7 tribal colleges. MSU-Northern and UM-Western also provide two-year degrees and programs.

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<sup>10</sup> Montana University System Two-Year Education Initiative: Making Opportunity Affordable; see Exhibit #14, ELG December 11, 2009m meeting materials.

- Tuition and fees at Montana two-year institutions are 70% of the four-year price, while the regional average for two-year college tuition and fees is 54% of the four-year college level.
- The percentage of Montana's college students enrolled in two-year colleges (24%) remains far below the regional average (45%).
- Montana ranks last in the West and 49th in the nation on the percentage of its population over 24 years of age engaged in higher education.
- Montana ranks last in the nation when comparing the total number of two-year degree and certificate recipients produced annually to the total number of Montana residents who are without a higher education credential.

OCHE reported that the Making Opportunity Affordable project is funded by a grant from the Lumina Foundation<sup>11</sup>. The Lumina Foundation's mission, according to its website, is to:

expand access and success in education beyond high school, particularly among adults, first-generation college going students, low-income students and students of color. This mission is directed toward a single, overarching big goal - to increase the percentage of Americans with high-quality degrees and credentials to 60 percent by the year 2025.

Montana received a four-year grant to implement its plan. OCHE listed the key strategies<sup>12</sup> in materials provided to ELG.

1. Every two-year college will deliver a comprehensive community college mission. Colleges will assume transfer and transition programs as well as the technical programs, and courses and degrees transferring for full credit to all Montana University System

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<sup>11</sup> Lumina Foundation grants ranged in 2009 from \$2,500 to more than \$4 million according to the Foundation's 2009 Annual Report. Montana-based grants recipients in 2009 were:

- Salish Kootenai College, which received \$402,200 to identify factors that improve the postsecondary retention and success of American Indian students enrolled in developmental studies courses; and
- the Student Assistance Foundation of Montana, which received \$140,000 to develop a sustainable statewide college access network in Montana that will support advocacy and policy efforts.

<sup>12</sup> Montana University System Two-Year Education Initiative; Making Opportunity Affordable; see Exhibit #14, ELG December 11, 2009 meeting materials.

campuses will be available at all two-year colleges. All two-year colleges will offer Adult Basic Education and dual credit programs.

2. Each two-year college will serve as the "higher education hub" in its region, responding to business and industry needs for workforce development as well as collaborating with K-12 school districts on college readiness.
3. There are about 120,000 Montanans with some college experience but no degree. The two-year colleges will develop adult-friendly programs to help interested adults earn a degree.
4. A "virtual community college" will bring online college courses and degrees to areas of the state without a college in the vicinity and will offer online courses at convenient time of day for adults.
5. Integrated information technology systems will help two-year colleges with IT upgrades, expanded services and access, and reduced costs.

### **Additional Reports**

Other education policy issues on ELG's agendas are listed below, along with the meeting date on which the information was presented. Audio minutes are available for each meeting, and the Legislative Services Division maintains copies of all of the reports provided to the committee:

- ▶ Driver education and strategies for combating distracted driving: October 2, 2009
- ▶ HB 645 Quality Schools Grant Program (see Appendix L for a summary): October 2, 2009
- ▶ Race to the Top: December 11, 2009
- ▶ Schools of Promise: March 12, 2010
- ▶ Montana's Adequate Yearly Progress measurements, required to be compiled by the federal No Child Left Behind Act: June 10, 2010
- ▶ School Counseling Leadership Initiative: December 11, 2009; and
- ▶ Montana School Boards AA School Caucus discussing the importance of and strategies for student achievement: August 16, 2010

## CONCLUSION

Cities, towns, counties, districts, and educational institutions across Montana provide a multitude of services to groups of the state's citizens who share similar rights and interests—the communities that shape Montana. Through enabling and governing statutes and in the appropriations process, the Legislature can affect the operation of these communities, but much of the time, they operate as distinct independent units of government. Even the Montana Constitution recognizes the independent nature of the state's education system and local governments, in Articles X and XI, respectively.

Carrying out the committee's responsibilities as the Legislature's emissary to these entities took ELG from zoning to mathematics standards to wildland fire to two-year education to historic preservation and points beyond. Its community service having been completed, ELG's efforts are reflected in work products, recommendations, and valuable legislator education that will pay dividends during the 2011 session.





**Appendix A**  
**HB 645 Historic Preservation Grants**



## HB 645 Historic Preservation Grants - Final Grant Awards

	ID	Applicant	County	Prelim Score	Eligible Amount Requested	Grant Award	Running Total Award
1	102	Wibaux County Museum	Wibaux	700	\$13,509	\$13,509	\$13,509
2	013	Belgrade City Hall & Jail	Gallatin	715	\$21,016	\$21,016	\$34,525
3	128	Moss Mansion	Yellowstone	810	\$28,130	\$28,130	\$62,655
4	093	Moon-Randolph Homestead	Missoula	725	\$28,878	\$28,878	\$91,533
5	024	Kiwanis Chapel	Hill	730	\$43,077	\$43,077	\$134,610
6	079	Original Mine Yard	BSB	785	\$43,490	\$43,490	\$178,100
7	041	Emerson Center for the Arts & Culture	Gallatin	780	\$43,850	\$43,850	\$221,950
8	109	Cobblestone School Building	Stillwater	815	\$67,369	\$67,369	\$289,319
9	018	Belt Theater Company	Cascade	775	\$70,520	\$70,520	\$359,839
10	125	Fort Peck Theatre	Valley	775	\$78,510	\$78,510	\$438,349
11	035	Conrad Mansion Museum	Flathead	780	\$84,000	\$73,750	\$512,099
12	052	Museum at Central School, NW Montana Historical Society	Flathead	845	\$86,600	\$86,600	\$598,699
13	037	City-County Administration Building	L & C	765	\$96,250	\$96,250	\$694,949
14	040	Lewistown Satellite Airfield, Fergus County	Fergus	700	\$97,385	\$39,385	\$734,334
15	008	The Beaverhead County Museum	Beaverhead	735	\$98,424	\$45,478	\$779,812
16	078	Greek Café	BSB	780	\$105,250	\$44,750	\$824,562
17	033	Diamond Block	L & C	750	\$118,725	\$43,420	\$867,982
18	111	Granite County Courthouse	Granite	735	\$139,626	\$90,264	\$958,246
19	001	Carbon County Historical Society and Museum	Carbon	755	\$140,000	\$50,000	\$1,008,246
20	063	Linfield Hall, Montana State University	Gallatin	845	\$154,000	\$50,000	\$1,058,246
21	011	H.S. Gilbert Brewery	Madison	850	\$154,445	\$100,000	\$1,158,246
22	075	Kaiser House	Granite	725	\$159,335	\$35,500	\$1,193,746
23	045	T.B. Story Mansion	Gallatin	785	\$165,842	\$24,334	\$1,218,080
24	022	Ft. Missoula Post Headquarters	Missoula	870	\$174,236	\$150,000	\$1,368,080
25	061	Phoenix Building, National Affordable Housing Network	BSB	820	\$220,000	\$50,000	\$1,418,080
26	085	Ravalli County Museum	Ravalli	785	\$220,770	\$50,000	\$1,468,080
27	054	Green Meadow Ranch	L & C	780	\$228,650	\$98,163	\$1,566,243
28	029	Silver Bow County Poor Farm Hospital, NCAT	BSB	725	\$230,260	\$50,000	\$1,616,243
29	026	Copper King Mansion	BSB	860	\$231,497	\$115,867	\$1,732,110
30	088	North Side School, Yellowstone Gateway Museum	Park	725	\$232,474	\$76,985	\$1,809,095
31	118	Union League of America Hall	Meagher	825	\$237,600	\$51,500	\$1,860,595
32	115	The History Museum	Cascade	805	\$243,098	\$65,345	\$1,925,940
33	106	Nine Mile Community Center	Missoula	720	\$244,810	\$45,241	\$1,971,181
34	095	East Side School, East Side Arts Center	Park	705	\$248,247	\$20,935	\$1,992,116
35	097	Daly Mansion	Ravalli	780	\$248,616	\$50,000	\$2,042,116
36	131	Fort Peck Hotel, Missouri River Camp LLC	Valley	765	\$249,264	\$83,100	\$2,125,216
37	010	Fort Assinniboine	Hill	815	\$249,844	\$129,445	\$2,254,661
38	100	Rialto Theater	Powell	895	\$250,000	\$161,174	\$2,415,835
39	020	Madison County Fairgrounds Grandstands	Madison	885	\$250,000	\$110,000	\$2,525,835
40	036	Boulder South Campus, Building No. 5	Jefferson	875	\$250,000	\$77,586	\$2,603,421
41	051	The Placer	L & C	855	\$250,000	\$50,000	\$2,653,421
42	121	Union Pacific Dining Lodge	Gallatin	855	\$250,000	\$65,000	\$2,718,421
43	117	Missoula County Court House	Missoula	850	\$250,000	\$52,000	\$2,770,421
44	043	ADL Historic Street Lighting System	ADL	840	\$250,000	\$50,000	\$2,820,421
45	014	Historic Tenth Street Bridge	Cascade	835	\$250,000	\$50,000	\$2,870,421
46	050	YWCA of Helena	L & C	825	\$250,000	\$50,000	\$2,920,421
47	127	Bearcreek Bank	Carbon	815	\$250,000	\$50,000	\$2,970,421
48	067	Northern Hotel, Zootist Hospitality	Yellowstone	795	\$250,000	\$50,000	\$3,020,421
49	090	Shelby High School	Toole	795	\$250,000	\$50,000	\$3,070,421
50	126	Chouteau County Courthouse	Chouteau	785	\$250,000	\$50,000	\$3,120,421
51	108	Flathead County Courthouse	Flathead	785	\$250,000	\$50,000	\$3,170,421
52	066	University of Montana, Main Hall	Missoula	785	\$250,000	\$50,000	\$3,220,421
53	047	Stedman Foundry Building, Montana Fish, Wildlife, & Parks	L & C	770	\$250,000	\$150,000	\$3,370,421
54	087	Copper Village Museum	ADL	745	\$250,000	\$150,000	\$3,520,421
55	076	The Montana Building	Missoula	725	\$250,000	\$50,000	\$3,570,421
56	046	Montana Club	L & C	715	\$250,000	\$50,000	\$3,620,421



Appendix B  
LC 247 (LC 9995)



\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act revising the process for creating a community college district; amending sections 20-15-201, 20-15-202, 20-15-204, 20-15-205, 20-15-206, 20-15-207, 20-15-208, 20-15-209, 20-15-231, and 20-15-241, MCA; repealing section 20-15-203, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 20-15-202, MCA, is amended to read:

**"20-15-202. Petition for organization of community college district--qualification of electors--county clerk and recorder's duties.** When the area of a proposed community college district satisfies the specified requirements, the registered electors of the area may petition the regents the board of county commissioners of the county or counties in which the proposed district is situated by filing the complete petition, addressed to the county commissioners, with the county clerk and recorder to call an election for the organization of a community college

district. ~~Such~~ The petition shall must be signed by at least 20% of the registered electors within each county or a part of a county included in the area of the proposed community college district. The county clerk and recorder of the county or counties in which the proposed district is situated shall, within 15 days, carefully examine the petition and the county records showing the qualifications of the petitioners and attach it to a certificate under the clerk and recorder's official signature and the seal of the office. The certificate must set forth:

- (1) the total number of persons who are registered electors within the proposed district;
- (2) which and how many of the persons whose names are subscribed to the petition are possessed of all of the qualifications required of signers to the petition; and
- (3) whether the qualified signers constitute more or less than 20% of the registered electors of the proposed district."

{Internal References to 20-15-202: None.}

**NEW SECTION. Section 2. Presentation of petition for organization of community college district to board of county commissioners--hearing required.** (1) The county clerk and recorder shall present the petition for the organization of the community college district and the clerk's certificate to the board of county commissioners of the county or counties in which the proposed district is situated at the first regularly scheduled meeting held after the date the clerk has attached the certificate or within 30 days, whichever is sooner.



(2) The board shall carefully examine the petition and the clerk's certificate, and if it is found that the petition is in proper form and bears the requisite number of signatures of qualified petitioners and the clerk's certificate is in order, the board shall by resolution call a hearing on the creation of the district.

NEW SECTION. **Section 3. Notice of hearing on petition for organization of community college district.** A notice of the hearing required by [section 2] must be published as provided in 7-1-2121.

NEW SECTION. **Section 4. Hearing on petition for organization of community college district.** At the time fixed for the hearing, the board of county commissioners shall hear all competent and relevant testimony offered in support of or in opposition to the petition for and the creation of the district. The hearing may be adjourned from time to time, for the determination of the facts or for hearing petitioners or objectors, without additional published or posted notice, but an adjournment may not exceed 2 weeks from the date originally noticed and published for the hearing. The commissioners shall cause a transcript or a recording of the hearing to be made.

NEW SECTION. **Section 5. Resolution of board of county commissioners.** (1) The board of county commissioners, upon

completion of the hearing provided for in [sections 3 and 4], shall proceed by resolution to approve or disapprove of the creation of the community college district. If the resolution is in favor of approval, the board may make changes that it considers advisable in the boundaries of the proposed district without including any additional lands not described in the petition. The resolution in favor of approval must also include an estimate of the mandatory tax levy, provided for in 20-15-312 and 20-15-313, necessary to fund the proposed district and an estimate of the impact on a home valued at \$100,000 and a home valued at \$200,000 in the district in terms of actual dollars in additional property taxes that would be imposed on residences with those values. The estimate may also include a statement of the impact on homes of any other value in the district.

**NEW SECTION. Section 6. Transmittal of recommendation of board of county commissioners.** If the recommendation of the board of county commissioners favors the creation of the proposed community college district, the board shall transmit a certified copy of its resolution as well as a copy of the transcript or the recording of the hearing to the board of regents of higher education.

**NEW SECTION. Section 7. Action by board of regents of higher education.** Within 180 days after its members have received the resolution and the transcript or the recording of the hearing held on the proposed community college district, the

board of regents of higher education shall vote for or against the creation of the proposed community college district. If the vote is to approve the creation of the proposed community college district, the regents shall then provide a written analysis of their decision, along with their recommendation, to the president of the senate and the speaker of the house.

**NEW SECTION. Section 8. Action by legislature.** Upon receiving the regents' written analysis of their decision and recommendation in favor of the creation of the proposed community college district, the Montana legislature shall, by joint resolution at its next regular session, either approve or disapprove the creation of the proposed community college district.

**NEW SECTION. Section 9. Election on question of creating community college district.** (1) The board of county commissioners, upon receiving a copy of the legislature's joint resolution approving the creation of the proposed community college district, shall proceed by an order calling an election to refer the question of the creation of the district to the persons qualified to vote on the proposition. The order must include a current estimate of the mandatory community college district tax levy provided for in 20-15-312 and 20-15-313.

(2) The board shall designate in its order whether a special election is to be held or whether the matter is to be

determined at the next general election. If a special election is ordered, the board shall specify the date for the election. The special election must be held in conjunction with a regular or a primary election.

(3) At the election the proposition must be in substantially the following form:

PROPOSITION

Shall there be organized within the area comprising the School Districts of .... (elementary districts must be listed by county), State of Montana, a community college district for the offering of 13th- and 14th-year courses, to be financed in part by a mandatory, nonvoted, community college district tax levy, and to be known as the Community College District of ....., Montana, under the provisions of the laws authorizing community college districts in Montana, as requested in the petition filed with the Board of County Commissioners at ....., Montana, on the .... day of ....., 20...?

FOR organization.

AGAINST organization.

(3) The election must be held in all respects, as nearly as practicable, in conformity with the school election laws."

NEW SECTION. **Section 10. Who may vote.** Only registered electors residing within the proposed community college district may vote on the question of the organization of the district.

**Section 11.** Section 20-15-204, MCA, is amended to read:

**"20-15-204. Election of trustees -- districts from which elected -- terms of office.** (1) The ~~regents~~ board of county commissioners shall provide for the election of trustees of the proposed community college district at the election held for the approval of its organization. Seven trustees ~~shall~~ must be elected at large, except that should there be in ~~such~~ the proposed community college district one or more high school districts or part of a high school district within the community college district with more than 43% and not more than 50% of the total population of the proposed district, as determined by the last census, then each ~~such~~ high school district or part of district shall elect three trustees and the remaining trustees ~~shall~~ must be elected at large from the remainder of the proposed community college district. ~~Should any such~~ If the high school district or ~~such~~ part of a high school district ~~have~~ has more than 50% of the population of the proposed district, then four trustees ~~shall~~ must be elected from ~~such~~ that high school district or ~~such~~ part of that high school district and three trustees at large from the remainder of the proposed community college district.

(2) If the trustees are elected at large throughout the entire proposed community college district, the three receiving the greatest number of votes ~~shall be~~ are elected for a term of 3 years, the two receiving the next greatest number of votes, for a term of 2 years, and the two receiving the next greatest number

of votes, for a term of 1 year. If the trustees are elected in any manner other than at large throughout the entire proposed community college district, then the trustees elected shall determine by lot the three who shall serve for 3 years, the two who shall serve for 2 years, and the two who shall serve for 1 year. Thereafter, all trustees elected shall serve for terms of 3 years each. However, a trustee may not be seated if the community college district organization issue fails."

{ Internal References to 20-15-204:  
20-15-231x }

**Section 12.** Section 20-15-205, MCA, is amended to read:

**"20-15-205. Call for nominations of trustee candidates and notice.** (1) A call for nominations of trustee candidates for the proposed community college district ~~shall~~ must be made by the regents board of county commissioners.

(2) Notice of the call for nominations ~~shall~~ must be published in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district once a week for 3 consecutive weeks, the last ~~insertion~~ publication to be no less than 5 weeks prior to the date of the election. ~~Such~~ The notice ~~shall~~ must describe the geographical composition of the board of trustees membership, nomination procedure, ~~and~~ the proposal for the organization of a community college district, and that a trustee may not be seated if the community college district organization issue fails."

{ Internal References to 20-15-205: None. }

**Section 13.** Section 20-15-206, MCA, is amended to read:

**"20-15-206. Nomination of candidates and provision of sample ballot.** (1) Nominations of candidates for the trustee positions must be filed with the regents board of county commissioners at least 30 days prior to the date of the election. Any five qualified electors may file nominations of as many persons as are to be elected to the board of trustees of the proposed community college district from their respective community college trustee election areas.

(2) The regents board of county commissioners shall provide the trustees of each district ordered to conduct the community college district organization election with a sample of the ballot for the election of the board of trustees. ~~Such~~ The sample ballot ~~shall~~ must be reproduced by the trustees county election administrator in a sufficient number to be used as the trustee election ballot."

{*Internal References to 20-15-206: None.*}

**Section 14.** Section 20-15-207, MCA, is amended to read:

**"20-15-207. Notice of organization election.** Notice of the community college district organization election and the accompanying election of a board of trustees for the proposed community college district ~~shall~~ must be given by the regents board of county commissioners, by publication in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district,

once a week for 3 consecutive weeks, the last insertion publication to be no more than 1 week prior to the date of the election."

{Internal References to 20-15-207: None.}

**Section 15.** Section 20-15-208, MCA, is amended to read:

"**20-15-208. Conduct of election.** The election for the organization of the community college district and the election of trustees for ~~such the~~ community college district ~~shall~~ must be conducted, in accordance with the school election laws, by the ~~trustees of the elementary districts~~ county election administrator ordered to call ~~such the~~ election. The cost of conducting ~~such the~~ election ~~shall~~ must be borne by the ~~districts board of county commissioners.~~"

{Internal References to 20-15-208: None.}

**Section 16.** Section 20-15-209, MCA, is amended to read:

"**20-15-209. Determination of approval or disapproval of proposition -- subsequent procedures if approved.** (1) To carry, the proposal to organize the community college district must receive a majority of the total number of votes cast, and the ~~coordinator of community college districts~~ county election administrator, from the results certified and attested, shall determine whether the proposal has received the majority of the votes cast for each county within the proposed district and shall certify the results to the ~~regents~~ board of county commissioners. ~~Approval for the organization of a new community college district~~



~~must be granted at the discretion of the legislature acting upon the recommendation of the regents.~~ If the certificate of the ~~coordinator of community college districts~~ county election administrator shows that the proposition to organize the community college district has received a majority of the votes cast in each county within the proposed district, the ~~regents board of county commissioners~~ may shall make an order declaring the community college district organized and cause a copy of the order to be recorded in the office of the county clerk and recorder in each county in which a portion of the new district is located. If the proposition carries, the ~~regents~~ board of county commissioners shall determine which candidates have been elected trustees. If the proposition to organize the community college district fails to receive a majority of the votes cast, a tabulation may not be made to determine the candidates elected trustees.

(2) Within 30 days of the date of the organization order, the ~~regents~~ board of county commissioners shall set a date and call an organization meeting for the board of trustees of the community college district and shall notify the elected trustees of their membership and of the organization meeting. The notification must designate a temporary presiding officer and secretary for the purposes of organization."

{ Internal References to 20-15-209: None. }

**Section 17.** Section 20-15-231, MCA, is amended to read:

"20-15-231. **Annexation of territory of districts to community college district.** (1) Whenever 10% of the registered electors of an elementary district or districts of a county that is contiguous to the existing community college district petition the board of trustees of a community college district for annexation of the territory encompassed in ~~such~~ the elementary school districts, the board of trustees of the community college district may order an annexation election in the area defined by the petition. ~~Such~~ The election ~~shall~~ must be held on the next general election day.

(2) (a) Prior to the election on the question of annexation, the trustees shall adopt a plan that includes:

(i) a schedule that provides for the orderly transition from the existing trustee representation to the representation required by 20-15-204, ~~with such~~ The transition period may not to exceed 3 years from the date of the election on the question of annexation;

(ii) provisions relating to the assumption or nonassumption of existing community college district bonded indebtedness by the annexed area and provisions relating to the responsibilities of the annexed area for any bonded indebtedness if it withdraws from the district; and

(iii) a procedure by ~~means of~~ which the electors of the annexed area may withdraw the annexed area from the community college district and the conditions of ~~such~~ withdrawal.

(b) The plan required by this subsection (2) may not be changed by the trustees without the approval of a majority of the

electors of the annexed area voting on the question. The bonding provisions of the plan set forth pursuant to subsection (2) (a) (ii) may not be changed.

(3) The election ~~shall~~ must be conducted in the proposed area for annexation in accordance with the requirements of the community college organization election, except that the board of trustees of the community college shall perform the requirements of the board of ~~regents~~ county commissioners and there ~~shall~~ may not be an election of the board of trustees of the community college.

(4) The proposition on the ballot ~~shall~~ must be as follows:  
 Shall school districts .... be annexed to and become a part of the Community College District of ....., Montana, to be financed in part by a mandatory, nonvoted, community college district tax levy?

FOR annexation.

AGAINST annexation.

(5) To carry, the proposals to annex must receive a majority of the total votes cast ~~thereon~~ on the issue. Upon receipt of the certified results of the election from the elementary districts encompassed in the proposed area to be annexed, the board of trustees of the community college district shall canvass the vote and declare the results of the election. If the annexation proposition carries, a certified copy of the canvassing resolution ~~shall~~ must be filed in the office of the county clerk and recorder of the county encompassing the area to be annexed and, upon such filing, the area to be annexed ~~shall~~

then ~~become~~ becomes a part of the community college district."

{Internal References to 20-15-231: None.}

NEW SECTION. **Section 20. {standard} Repealer.** The following section of the Montana Code Annotated is repealed:  
20-15-203. Call of community college district organization election -- proposition statement.

{Internal References to 20-15-203: None.}

NEW SECTION. **Section 21. {standard} Effective date.** [This act] is effective on passage and approval.

- END -

{Name : Jeremy Gersovitz  
Title : Staff Attorney  
Agency: Legislative Services Division  
Phone : (406)444-3804  
E-Mail: JGersovitz@mt.gov}

**Appendix C**  
**WUI Policy Development Timeline**



# Wildland Urban Interface: Key Points in the Development of WUI Policy

Prepared by Staff of Legislative Services Division, August 2010

## Legislative Audit Committee

Requested performance audit of state wildland fire preparedness & suppression programs.

## Legislative Audit Division

Produced report entitled "Wildland Fire Administration," documenting LAD performance audit of DNRC role in wildfire suppression, including costs, coordination with other fire protection agencies, & availability of resources.

Among report's conclusions:

- "Fires in wildland urban interfaces increase costs."
- "Movement into the wildland urban interface is driving up the costs of fighting wildland fires. The costs and difficulties associated with eliminating wildland fires in the interface area could be significantly curtailed if local governments exercised their authority to establish 'firewise' building codes and subdivision regulations and required all property owners to establish defensible spaces around all structures."
- "[A]n interim legislative committee could be appointed to study, update, and re-codify the fire-related statutes to address current development and environmental conditions and improve wildland fire suppression management and mitigation."

## HJR 10

Requested interim study to "develop, consolidate, and update fire-related statutes, in collaboration with the Department of Natural Resources and Conservation, wildland fire service organizations, and any other organizations, to address dangerous environmental conditions and areas of wildland/urban interface, to improve wildland fire suppression and mitigation, and to recommend legislation to appropriately fund wildland fire protection and suppression costs."

## SB 145

Requested by EQC as a result of HJR 10 study.

Among changes the bill implemented were establishing a state wildfire policy & defining "wildland-urban interface" consistent with National Wildfire Coordinating Group's Glossary of Wildland Fire Terminology.

## SB 51

Original draft would have required local governments to designate the WUI within their jurisdictional boundaries.

Compromise language developed that:

- required growth policies to include evaluation of potential for fire & wildland fire.
- clarified meaning of "approved construction techniques" for purposes of 76-3-504(1)(e).
- required DNRC to adopt rules addressing development in WUI, including: 1) best practices for development in the WUI, and 2) criteria for providing grant & loan assistance to local governments to encourage best practices.
- required Dept. of Labor & Industry to adopt rules that identify construction techniques that may be used by local government in mitigating fire hazards pursuant to 76-3-504(1)(e) (local subdivision regulations).

## Fire Suppression Committee

Formed during 2007 special session to appropriate state's costs (\$40 million) of 2007 fire season.

Charged with exploring ways to reduce wildfire suppression costs.

Formed WUI subcommittee & studied costs of fire suppression in WUI areas, with participation from DNRC and Dept. of Labor & Industry.

Held 7 public hearings around state.

Issued several conclusions & recommendations regarding WUI, among them that fire suppression costs cannot be contained in absence of fuels treatment and other mitigation measures in WUI  
Requested SB 131.

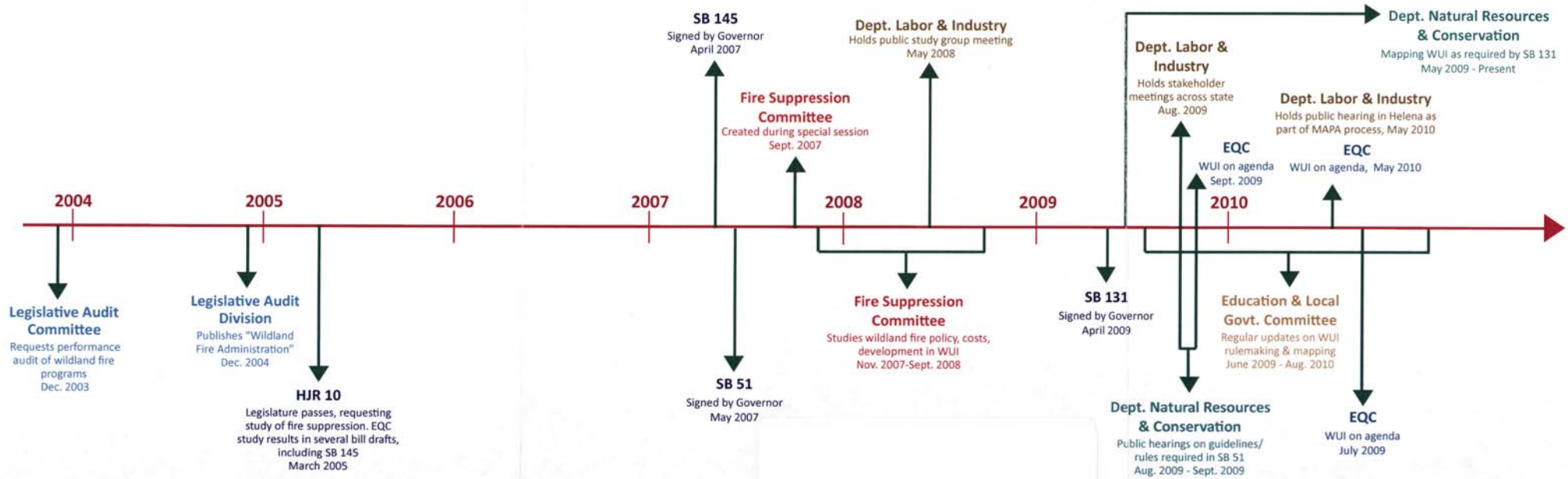
## SB 131

Requested by FSC as a tool to ultimately help contain wildfire suppression costs incurred by the state.

Required DNRC to map WUI in Montana counties, working with counties and local fire officials.

Intended to identify exactly where WUI is and identify areas where fuels treatment may be prioritized and grant and loan funding may be directed.

Designation may also be incorporated by local governments, but they must follow long-established public processes for amending or establishing land use regulations.







**Appendix D**  
**SB 51 (2007) and SB 131 (2009) Discussion**





## Education and Local Government Interim Committee

### 61st Montana Legislature

#### SENATE MEMBERS

KELLY GEBHARDT--Vice Chair  
GARY BRANAE  
KIM GILLAN  
BOB HAWKS  
DANIEL MCGEE  
JIM PETERSON

#### HOUSE MEMBERS

WANDA GRINDE--Chair  
ELSIE ARNTZEN  
RUSSELL BEAN  
BOB LAKE  
EDITH MCCLAFFERTY  
CHERYL STEENSON

#### COMMITTEE STAFF

LEANNE HEISEL, Research Analyst  
JEREMY GERSOVITZ, Staff Attorney  
CLAUDIA (CJ) JOHNSON, Secretary

TO: Committee members  
FROM: Leanne Kurtz  
DATE: March 12, 2010  
RE: SB 51 (2007) and SB 131 (2009)

At your December meeting and during previous meetings this interim, you have heard information about SB 51, a land use bill requested by the 2005-2006 Education and Local Government Interim Committee and sponsored by Sen. Hawks. The bill deals with wildland fire and the wildland-urban interface as they pertain to growth policies and subdivision laws. SB 51 is related to SB 131, requested by the Fire Suppression Committee and enacted by the 2009 Legislature, which requires the Department of Natural Resources and Conservation to designate WUI parcels in each county.

This document is intended to provide you with details about what SB 51 and SB 131 require; how SB 51 evolved from its introduced version to its final version and the participants in that process; the Fire Suppression Committee's intent in requesting SB 131; and how SB 51 relates to SB 131.

#### SB 51 - What it Does

The final version of SB 51, as signed by the Governor, is incorporated into the Montana Code Annotated as follows.

1. **Section 76-1-601, MCA**, requires growth policies adopted by local governments to include an evaluation of the potential for fire and wildland fire in the jurisdictional area, including whether or not there is a need to:
  - a. delineate the wildland-urban interface; and
  - b. adopt regulations requiring:
    - i. defensible space around structures;
    - ii. adequate ingress and egress to and from structures and developments to facilitate fire suppression activities; and
    - iii. adequate water supply for fire protection.
2. **Section 76-3-501, MCA**, adds fire and wildland fire to the list of items that may constitute a natural hazard for the purposes of subdivision regulations.
3. **Section 76-3-504, MCA**, clarifies the meaning of "approved construction techniques" for the element of subdivision regulations that must prohibit subdivisions in areas identified as unsuitable for development unless hazards can be overcome by the approved techniques or other mitigation measures.

The changes provide that approved construction techniques or other mitigation measures may not include building regulations as defined in 50-60-101 other than those identified by the Department of Labor and Industry under the new rules required in the bill.

4. **Section 76-13-104, MCA**, requires DNRC to adopt rules addressing development in the wildland-urban interface, including, but not limited to best practices for development within the wildland-urban interface; and criteria for providing grant and loan assistance to local government entities to encourage adoption of best practices for development within the wildland-urban interface.

The grant and loan assistance is not DNRC's County Co-op program in which DNRC provides equipment and training to local fire entities. The grant and loan assistance would be for helping communities with fuels mitigation and wildland fire preparedness.

DNRC has completed its rulemaking process and has incorporated the rules in the agency's portion of the ARM.

5. Sections 5 and 6 of the bill, which became **50-60-901 and 50-60-902, MCA**, indicate that these new sections provide specific rulemaking authority to the Department of Labor and Industry for the purposes of 76-3-504(1)(e), which are the subdivision regulations' approved construction techniques (see #3, above).

DLI's rules are to identify construction techniques that may be used by a local government in mitigating fire hazards pursuant to 76-3-504(1)(e) and may not be construed to be part of the state building code.

Section 50-60-902, MCA, states that the rules may be enforced only by a local governing body and only if the governing body incorporates the rules into its subdivision regulations.

This section was intended to provide local governments with guidelines on how fire hazards may be mitigated through appropriate construction.

### **SB 51 - How it Evolved**

A bill to require local governing bodies to designate the WUI within their jurisdictional areas and to require local subdivision regulations to impose certain defensible space, ingress/egress, and water supply requirements on subdivisions proposed in these areas was considered by the 2005-2006 Education and Local Government Committee. However, SB 51, in the form that Sen. Hawks introduced it, differed significantly from the original proposal and the version discussed on Second Reading in the Senate differed significantly from the introduced version. Thus began SB 51's tortured history through the legislative process.

Discussions surrounding SB 51 after the bill's Senate hearing prompted Sen. Jeff Mangan, Senate Local Government chair, to suggest that the interested parties form a work group to attempt to reach consensus on amendments before the committee took Executive Action. The Montana Association of Realtors was an active participant in the working group, along with the Montana Smart Growth Coalition, the Montana Association of Counties, Missoula County, the Montana Association of Planners, and others to develop amendments to the introduced bill.

A February 14, 2007, memo from Michael Kakuk, attorney and lobbyist for MAR, discusses the proposed amendments to which most of the working group participants agreed upon and which were presented to the committee as such. Mr. Kakuk's comments are included because it is staff's opinion that they accurately reflect the understanding and intent of most of the working group participants and accurately describe the adopted amendments. However, Mr. Kakuk's memo was submitted only on behalf of MAR, not the entire working group.

1. **Changes to Section 1: "[The new] language requires that if a local government (LG) adopts a growth policy (GP), it must evaluate the potential for fire and the need to adopt regulations addressing the above criteria. The extent to which a LG decides to evaluate or regulate remains entirely up to the LG and nothing in this section makes GPs required or regulatory." Mr. Kakuk added that he believes LGs already have this authority under current law, but that the change raises the importance of fire issues.**

*Staff Note:* While the changes to growth policy law in themselves do not make growth policies regulatory, a local government may incorporate the criteria and adopt and enforce regulations to require the elements listed with respect to fire.

2. Section 2 did not change.
3. **Changes to Section 3: This approach accomplishes the following objectives:**
  - [A]. This section clearly allows LGs to require any and all mitigation, including "approved construction techniques" to mitigate hazards;**
  - [B]. This section clearly states that this mitigation authority does not allow LGs to require any mitigation measure that is statutorily defined as a 'building regulation' unless that mitigation or technique has been approved by the Department of Labor. To restate: If the mitigation or construction technique is a "building regulation", local governments can only require such technique if the [DLI] has approved its use in the rules. If the construction technique or mitigation is not a 'building regulation', the LG may require its use, regardless of whether or not the [DLI] has included such measure in its rules."**

*Staff Note:* The wording did change somewhat--in the interest of clarity--before SB 51 was enacted, but the meaning with regard to DLI rules and their use did not change.

4. Changes to Section 4: **"This language requires the DNRC to adopt rules regarding the above fire issues. However, it is paramount to understand that these "rules" cannot be enforced by DNRC itself. Rather the rules must be evaluated by the LG, adopted through the standard LG regulation adoption process, and only then are these rules enforceable - and enforceable only by the LG itself. It is hoped that this DNRC rule adoption process will better ensure some state-wide consistency in how LGs regulate development in the interface."**

*Staff Note:* A very similar explanation of the application of this law can be used to describe DNRC's implementation of SB 131 (see discussion below). The rules took the form of "Guidelines for Development Within the Wildland-Urban Interface" document, implemented through the Montana Administrative Procedure Act on September 24, 2009. The guidelines may be incorporated in whole or in part by local governments for regulatory purposes, but only through the processes already established in laws governing local land use regulation.

5. On DLI rulemaking: **"This section authorizes, and then requires, [DLI] to identify 'construction techniques' that can be used by LGs to mitigate hazards. As explained above, if the [DLI] identifies a particular construction technique in these rules, that technique - even if defined as a building regulation under 50-60-101 - can be required by an LG regardless of whether or not that LG has the authority to enforce building regulations."**
6. On DLI enforcement: **"This section clarifies that, as with DNRC above, it will be the LG that will actually adopt and enforce the identified construction techniques through their subdivision regulations."**
7. Codification instruction: **"This section clarifies that [DLI] construction technique identification process will take place outside of the [DLI's] building code authority."**

The Local Government Committee sent SB 51 to the Senate Floor with a vote of 10-1. It passed the Senate on a Third Reading vote of 33-17.

The House Natural Resources Committee further amended SB 51. The Senate rejected the amendments and a free conference committee worked out the differences. The final version of the bill is very similar to the Senate's Second Reading version.

### **SB 131-- Background and Intent**

The following does not speak to how individual counties may be interpreting or implementing section 76-13-145 (SB 131). It does explain the Fire Suppression Committee's intent in requesting the bill and, technically, what the bill does.

- ▶ The 60th Legislature formed the Fire Suppression Committee during a special session to

appropriate money to fund the state's share of costs incurred (around \$40 million) during the extreme 2007 fire season. FSC met monthly and held hearings around the state to collect public opinion on federal, state, and local fire suppression; opportunities to mitigate fire hazards; and control costs to taxpayers. A WUI Subcommittee explored the issues in depth and aspects of the WUI were central to nearly all of FSC's discussions.

- ▶ Through the hearings and during FSC's deliberations on its recommendations and bill draft requests, it became evident that before any incentives or other treatment in the WUI could work--and possibly bring fire costs down--a statewide map detailing the parcels considered to be in the WUI must be developed.
- ▶ The committee considered it imperative that citizens, governmental entities, and fire officials know precisely what land is in the WUI and what is not for the purposes of grant and loan applications; fuels mitigation funding; analyzing hazards; and addressing defensible space, ingress and egress, and water supply concerns.
- ▶ The Department of Natural Resources and Conservation was tasked with developing that map in consultation with local government and local fire officials.
- ▶ SB 131 provided that if a community had already developed a Community Wildfire Protection Plan (CWPP)--and the vast majority of counties have--the WUI designations in those plans could be used for the statewide map. FSC intended this provision to result in avoiding duplication of work done by communities and to honor communities' initiative in establishing their own WUI designations.
- ▶ A CWPP is a citizen-driven plan to prepare communities for wildland fire emergencies. A CWPP is defined in the federal Healthy Forest Restoration Act of 2003 as:
  - a plan for an at-risk community that—
    - (A) is developed within the context of the collaborative agreements and the guidance established by the Wildland Fire Leadership Council and agreed to by the applicable local government, local fire department, and State agency responsible for forest management, in consultation with interested parties and the Federal land management agencies managing land in the vicinity of the at-risk community;
    - (B) identifies and prioritizes areas for hazardous fuel reduction treatments and recommends the types and methods of treatment on Federal and non-Federal land that will protect 1 or more at-risk communities and essential infrastructure; and
    - (C) recommends measures to reduce structural ignitability throughout the at-risk community.
- ▶ Through a CWPP, a community can receive federal and state assistance for fuels

treatment in areas prioritized through the plan's development process. Creation of a CWPP is not required by federal, state, or local governments and creation of a CWPP does not constitute zoning or authorize subdivision restrictions.

- ▶ Designation of the WUI parcels as required in 76-13-145 also does not, in itself, constitute zoning or impose subdivision regulations. A local government may use the designation to propose zoning or to identify areas where wildfire hazards exist for the purposes of subdivision regulations, but the local government must still comply with all of the requirements and limitations located in Title 76, chapters 2 and 3 to create or amend zoning regulations or create or amend subdivision regulations.
- ▶ Similar to item #4 on page 3, this section does not give DNRC authority to regulate or enforce land use laws through this section.

#### **Relationship of DNRC rulemaking (SB 51) to DNRC WUI designation (SB 131)**

- ▶ DNRC rules--required in SB 51--and WUI designation--required in SB 131--are related in that the rulemaking requirements in section 76-13-104 (8)(b) direct DNRC's rules to address "criteria for providing grant and loan assistance to local government entities to encourage adoption of best practices for development within the wildland-urban interface." DNRC's criteria is that in order to qualify for this grant and loan assistance, a local government must adopt a CWPP or its equivalent by October 1, 2010.
- ▶ As of February 24, 2010, 49 of Montana's 56 counties had adopted a CWPP and WUI data has been collected for 36 counties.

#### **Summary**

1. SB 51 was amended numerous times during its progress through the 2007 session and compromises were reached through extensive discussions among legislators and individuals representing Realtors, planners, smart growth advocates, and some counties. The final version of the bill had the support of all but two of those attending the March 16, 2007, hearing in the House Natural Resources Committee.
2. SB 131 was intended by the Fire Suppression Committee to identify where the WUI is across the state and to identify areas where fuels mitigation may be prioritized, where grants and loans may be directed, and where local governments may consider defensible space, ingress/egress, and water supply issues.
3. Although local governments may incorporate wildland fire guidelines and rules and WUI designation into their regulatory documents, neither bill allows local, state, or federal governments to bypass established public processes that must be followed when the entity intends to create or amend regulatory documents in this way.
4. CWPPs are not regulatory and are not required by the state or federal governments, except in cases where a community wishes to apply for state or federal fuels treatment funding.



**Appendix E**  
**DLI SB 51 Amended Rule Notice**



BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption NEW ) NOTICE OF PUBLIC HEARING ON  
RULES I through XIII, pertaining to ) PROPOSED ADOPTION  
approved construction techniques for )  
fire mitigation )

TO: All Concerned Persons

1. On May 24, 2010, at 1:00 p.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana to consider the proposed adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on May 19, 2010, to advise us of the nature of the accommodation that you need. Please contact Dave Cook, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2053; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2050; e-mail dcook@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2007 Montana Legislature enacted Chapter 443, Laws of 2007 (Senate Bill 51), an act revising growth policy and subdivision laws and requiring subdivision regulations to identify areas unsuitable for development. The bill was signed by the Governor and became effective on May 8, 2007. The department determined it is reasonable and necessary to adopt New Rules I through XIII to implement the legislation which requires the department to identify appropriate construction techniques for mitigation of fire hazards.

As required by 76-3-501, MCA, the governing bodies of every county, city, and town must adopt and provide enforcement of subdivision regulations. In turn, 76-3-504, MCA, requires such local subdivision regulations to provide for the identification of areas that are unsuitable for subdivision development because of natural or human-caused hazards. The regulations must prohibit subdivision in these areas, unless the hazards can be eliminated or overcome by approved construction techniques or other mitigation measures, including those identified by the department under the direction of Title 50, chapter 60, part 9, Fire Mitigation Construction Techniques. The proposed rules were developed after a series of public meetings conducted by the department across the state and included various governmental officials and representatives of the private sector.

As restated in the body of the proposed new rules for emphasis, the proposed New Rules implement the 2007 legislation, which requires the department to merely identify appropriate construction techniques, from which local government officials may select and enforce individually or in combination, to mitigate identified fire

hazards. The rules and stated construction techniques are not part of the state building code and are not enforceable by the department's Building Codes Bureau.

4. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS (1) As used in this subchapter, the following definitions apply:

(a) "Accessory structure" means a building or structure utilized for sheltering equipment or materials, or for other uninhabitable occupancy purposes.

(b) "Approved" means acceptable to the code official or authority having jurisdiction.

(c) "Department" means the Department of Labor and Industry.

(d) "Fire-resistance-rated construction" means the use of methods, materials, and systems in the construction of a structure to provide against the spread of fire within a structure and to or from a structure to the outside environment.

(e) "Ignition-resistant building material" means a type of building material that resists ignition or sustained flaming combustion.

(f) "International Building Code" means the International Building Code (IBC), adopted by ARM 24.301.131.

(g) "International Residential Code" means the International Residential Code (IRC) adopted by ARM 24.301.154.

(h) "Noncombustible" means a material that is either a material of which no portion will ignite and burn when fire is applied to it, or a material that has a structural base of noncombustible material with surface materials not in excess of 1/8 inch in thickness, which has a flame spread index of 50 or less.

(i) Any material conforming to ASTM 136 shall be considered noncombustible.

(ii) "Flame spread index" refers to the index obtained from tests conducted in ASTM E 84 or UL 723.

(i) "Wildland-Urban Interface" (WUI), means that geographical area where structures and other human development meet or intermingle with wildland or vegetative fuels.

AUTH: 50-60-901, MCA

IMP: 76-3-504, MCA

NEW RULE II APPLICABILITY AND ENFORCEABILITY (1) For the purposes of this subchapter and pursuant to 50-60-901, MCA, the department provides the following construction techniques that may be used individually or in combination by a local government to mitigate identified fire hazards in areas designated by local government pursuant to 76-3-504, MCA.

(2) Rules adopted under this subchapter may not be construed as part of the state building code provided in 50-60-203, MCA, and may only be enforced as provided in Title 76, chapter 3, part 5.

AUTH: 50-60-901, MCA

IMP: 76-3-504, MCA

NEW RULE III PREMISES IDENTIFICATION (1) The address of the building shall be plainly visible and legible from the building's primary access road adjacent to the property.

AUTH: 50-60-901, MCA  
IMP: 76-3-504, MCA

NEW RULE IV SMOKE DETECTION (1) All habitable structures shall have smoke alarms installed that meet or exceed the provisions for smoke detection and notification found in either the latest adopted edition of the IRC or the IBC, whichever applies to the type of structure.

AUTH: 50-60-901, MCA  
IMP: 76-3-504, MCA

NEW RULE V ROOF AREAS (1) Roof coverings shall have at least a Class B roof assembly or an approved noncombustible roof covering. If the profile of the covering is such that a space is present between the covering and the roof decking, the space at the eave ends shall be fire-stopped to prevent the entry of flames or embers; or have one layer of 72-pound mineral-surfaced, nonperforated cap sheet, complying with ASTM D 3909, and installed over the combustible decking.

(2) When roof valleys are present, valley flashing shall consist of not less than 0.019-inch (26-gauge galvanized sheet) corrosion-resistant metal installed over a minimum three-foot wide underlayment of one layer of 72-pound mineral-surfaced, nonperforated cap sheet, complying with ASTM D 3909, and installed over the entire running length of the valley.

(3) Eaves, soffits, and fascias that are combustible shall be enclosed with solid materials with a minimum thickness of 3/4 inch. Rafter tails shall not be left exposed, unless constructed of heavy timber materials.

(4) If a structure is not located in a designated WUI, the roof assemblies listed in this rule shall comply with the IRC.

AUTH: 50-60-901, MCA  
IMP: 76-3-504, MCA

NEW RULE VI CHIMNEYS AND FLUES (1) An approved spark arrester constructed of a minimum 12-gauge welded-wire or woven-wire mesh, with openings not exceeding 1/2 inch shall be installed on every fireplace and wood stove chimney and flue.

AUTH: 50-60-901, MCA  
IMP: 76-3-504, MCA

NEW RULE VII GUTTERS AND DOWNSPOUTS (1) Gutters and downspouts shall be constructed of noncombustible materials and shall prevent the accumulation of leaves and debris by an approved method.

(2) If a structure is not located in a designated WUI, this rule does not apply.

AUTH: 50-60-901, MCA

IMP: 76-3-504, MCA

NEW RULE VIII EXTERIOR AREAS (1) In structures where the window to exterior wall area exceeds 20 percent (i.e., more than 20 percent of all exterior wall areas is comprised of exterior windows or window walls), the exterior windows, window walls, glazed doors, glazing within exterior doors, and skylights shall be tempered glass, multilayered glazed panels, glass block, or have a fire protection rating of not less than 20 minutes.

(2) Exterior doors shall be of approved noncombustible construction and materials, solid core wood not less than 1 3/4 inches thick, or have a fire protection rating of not less than 20 minutes. Vehicle access doors shall be constructed of ignition-resistant building materials.

(3) Exterior walls of buildings or structures shall extend from the top of the foundation to the underside of the roof sheathing and shall be constructed with one of the following methods:

(a) materials approved for a minimum of one-hour fire-resistance-rated construction on the exterior side;

(b) noncombustible materials;

(c) heavy timber or log wall construction;

(d) wood that is labeled for exterior use and is fire-retardant-treated on the exterior side; or

(e) materials that are ignition-resistant on the exterior side.

(4) If a structure is not located in a designated WUI, this rule does not apply.

AUTH: 50-60-901, MCA

IMP: 76-3-504, MCA

NEW RULE IX VENTS (1) Ventilation openings in vertical exterior walls, attics, foundations, or underfloor areas shall not exceed 144 square inches each. Attic ventilation openings shall not be located in soffits, eave overhangs, between rafters at eaves, or other overhang areas.

(a) Gable end and dormer vents shall be located at least ten feet from property lines.

(b) Underfloor ventilation openings shall be located as close to grade as practical.

(2) All such vents shall be covered with noncombustible corrosion-resistant mesh with openings not to exceed 1/4 inch or shall be designed and approved to prevent ember or flame penetration into the structure. Vents shall not be placed in walls that face heavy vegetative fuels.

(3) If a structure is not located in a designated WUI, this rule does not apply.

AUTH: 50-60-901, MCA

IMP: 76-3-504, MCA

NEW RULE X UNENCLOSED UNDERFLOOR AREAS (1) All underfloor areas shall be enclosed to the ground in the same manner as required for exterior walls in [NEW RULE VIII], unless such unenclosed areas are protected with either one-hour fire-resistance-rated construction or heavy timber construction or fire-retardant-treated wood to the underside of all exposed floors and all exposed structural columns, beams, and supporting walls.

(2) If a structure is not located in a designated WUI, this rule does not apply.

AUTH: 50-60-901, MCA

IMP: 76-3-504, MCA

NEW RULE XI ACCESSORY STRUCTURES (1) An accessory structure without a complete exterior wall system enclosing the area under the roof or above the floor that is attached to buildings with habitable spaces and projections (e.g., decks), shall be a minimum of one-hour fire-resistance-rated construction, heavy timber construction, or constructed of one of the following:

- (a) noncombustible materials;
- (b) fire-retardant-treated wood labeled for exterior use; or
- (c) ignition-resistant building materials.

(2) When an attached accessory structure is located so that any portion of the structure projects over a descending slope surface greater than ten percent, the area below the structure shall have all underfloor areas enclosed to within six inches of the ground, with exterior wall construction in accordance with [NEW RULE VIII].

(3) If a structure is not located in a designated WUI, this rule does not apply.

AUTH: 50-60-901, MCA

IMP: 76-3-504, MCA

NEW RULE XII STORAGE TANKS (1) Propane tanks and other flammable or combustible liquids storage shall be buried underground. If soil or subsoil conditions prohibit complete burial, then tanks shall be partially covered by at least one foot of earth, sand, or other noncombustible material.

(2) Other installation methods such as installation in vaults or other protective methods that comply with NFPA 58 standards may be used in lieu of burial.

(3) Structures not located in a designated WUI may have storage tanks installed above ground, so long as they conform to the NFPA 58 standard and be located at least 30 feet from any structure.

AUTH: 50-60-901, MCA

IMP: 76-3-504, MCA

NEW RULE XIII WATER SOURCES – PRIVATE WELLS (1) Structures served by a private well shall have the pump wired on a separate circuit or disconnect to allow the pump to remain energized if the main disconnect to the structure is disconnected or turned off.

AUTH: 50-60-901, MCA

IMP: 50-60-902, 76-3-504, MCA

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the department, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2050, or by e-mail to [cwhite@mt.gov](mailto:cwhite@mt.gov), and must be received no later than 5:00 p.m., June 1, 2010.

6. An electronic copy of this Notice of Public Hearing is available through the department's site on the World Wide Web at [www.buildingcodes.mt.gov](http://www.buildingcodes.mt.gov). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program or areas of law the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be sent or delivered to Dave Cook, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2050, e-mailed to [dcook@mt.gov](mailto:dcook@mt.gov), or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on February 23, 2010, by electronic mail.

9. Colleen White, attorney, has been designated to preside over and conduct this hearing.

/s/ DARCEE L. MOE  
Darcee L. Moe  
Alternate Rule Reviewer

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 19, 2010



**Appendix F**  
**HB 645 Disbursement to County Governments**



\* denotes amended Scope of Work

**Montana Department of Commerce -- HB 645 Disbursement to County Governments**

County Name	Project	Amount of Grant
Beaverhead	County Courthouse Repair	\$ 197,687
Big Horn	Little Horn Road Reconstruction	\$ 192,702
Blaine	County Building Improvements	\$ 185,123
Broadwater	County Road Chip Seal	\$ 136,788
Carbon	West Fork Road Expansion	\$ 154,690
Carter	Gravel Crushing	\$ 143,085
Cascade	County Building Energy Performance Contract	\$ 243,449
Chouteau	County Road Repair and Reconstruction	\$ 192,187
Custer	County Road and Buildings, including Silo Loop Road, Pine Hills Improvement, County Building Repair and Remodel, and the Stower Street Paving Project*	\$ 155,820
Daniels	County Road Gravel Screening/Crushing	\$ 133,192
Dawson	\$60,000 road department building & fence around the yard; \$78,666 for joint project with county and city of Glendive; and \$20,595 to apply to Cemetary Department building*	\$ 159,261
Deer Lodge	Street Light Renovation	\$ 127,530
Fallon	County Road and Parks Shop Building	\$ 133,824
Fergus	Scott Crossing Bridge Replacement	\$ 188,765
Flathead	Mennonite Church and Creston Roads Construction	\$ 423,650
Gallatin	Fairgrounds Restroom Construction and Replacement	\$ 309,377
Garfield	County Building Heating/Cooling System Replacement	\$ 157,936
Glacier	Glacier County Jail/Detention Center	\$ 178,065
Golden Valley	Fire Hall and Roads	\$ 122,028
Granite	Metesch Lane Bridge Replacement and Courthouse Improvements*	\$ 137,514
Hill	Sheppard and Bulhook Roads Pavement Overlay	\$ 193,690
Jefferson	Boulder South Campus Sewer Replacement	\$ 167,387
Judith Basin	Replace the Arrow Creek Bridge, replace the North Channel of Louse Creek Bridge, & replace the Louse Creek Bridge*	\$ 142,083
Lake	Complete a 28' x 70' building addition for Polson Rural Fire House to house the Office of Emergency Management; including offices & equipment; Replace Two Bridges Over the A-Canal (Light Road & Stasso Road) with engineered steel spans*	\$ 223,069
Lewis & Clark	Lewis and Clark County Fairgrounds Plaza	\$ 278,951
Liberty	Liberty Senior Center	\$ 137,676
Lincoln	Tobacco Valley Industrial Park Infrastructure Improvements; and Kootenai Business Park Improvements	\$ 247,058
Madison	Bridge Improvement Projects Madison Valley Manor, Nursing Home Renovation*	\$ 177,586
McCone	Geothermal Heat Loop Courthouse Retrofit	\$ 146,447
Meagher	County Building Energy Efficiency and Handicap Accessibility Updates	\$ 133,317
Mineral	Mineral County Jail And Courthouse Restoration and Repair	\$ 141,933
Missoula	Big Flat Road Reconstruction	\$ 320,574
Musselshell	Goffena Bridge Replacement	\$ 138,007
Park	9th Street Bridge Replacement	\$ 176,326
Petroleum	Courthouse Windows; Dovetail Creek Crossing, and Petroleum County Road Upgrade	\$ 123,573
Phillips	Courthouse Parking Lot and Sidewalk Projects	\$ 178,649
Pondera	Pondera County Community and Senior Center Remodel	\$ 147,656
Powder River	Powder River County Fire Hall	\$ 145,904
Powell	Energy Efficient Windows and Boiler For County Courthouse	\$ 146,593
Prairie	County Fairgrounds Grandstand Replacement and Terry Park Facilities Renovation	\$ 128,162
Ravalli	Ambrose Creek Road Pavement Preservation	\$ 293,313
Richland	Spring Lake Road Reconstruction	\$ 160,542
Roosevelt	Energy Efficient Courthouse Windows Project	\$ 169,892
Rosebud	Ingomar Water And Sewer Project; and Forsyth Library Elevator Project	\$ 180,840
Sanders	High Bridge Reconstruction	\$ 182,472
Sheridan	County Road Gravel and Engineering, County Road Gravel Crushing, and Plentywood Bypass Route	\$ 150,320
Silver Bow	County Road Repair and Maintenance combined contract with Butte-Silver Bow	\$ 129,508
Stillwater	County Courthouse and Bridge	\$ 165,675
Sweet Grass	Pioneer Medical Center Renovation	\$ 133,684
Teton	County Nursing Home and County Road Gravel	\$ 166,004
Toole	Energy Efficient Lighting for Toole County Hospital	\$ 147,054
Treasure	County Building Renovations	\$ 113,780
Valley	Valley County Detention Center Addition	\$ 201,137
Wheatland	County Road Shop and Harlowtown Fire Hall	\$ 123,293
Wibaux	County Fairgrounds Exhibit Building	\$ 118,577
Yellowstone	Clapper Flat and Vandaveer Roads and Courthouse Remodel	\$ 284,860

**Total: \$ 9,888,263**



**Appendix G**  
**HB 645 Disbursement to City Governments**



\* denotes amended Scope of Work

Montana Department of Commerce -- HB 645 Disbursement to Local Governments		
Town/City	Project	Amount of Grant
Town of Alberton	Street Repairs and Paving	\$ 13,126
Anaconda-Deer Lodge	Street Light Renovation	\$ 140,948
Town of Bainville	Simard Park Improvements - Sprinkler Systems and Sidewalks	\$ 11,095
City of Baker	Storm Drain Installation on South Montana 7 and Secondary 322	\$ 39,767
Town of Bearcreek	Town Hall Renovation and Repairs	\$ 7,473
City of Belgrade	Street Intersection Reconstruction and Sidewalk Extension	\$ 132,506
Town of Belt	Replace Concrete Water Storage Tank	\$ 16,064
Town of Big Sandy	Sewer Main Replacement and Resurface Johannes Avenue	\$ 20,200
City of Big Timber	Anderson Street Asphalt Overlay Project	\$ 40,491
City of Billings	Reconstruction Alkali Creek Road	\$ 1,650,688
City of Boulder	Water System Treatment Project	\$ 32,645
City of Bozeman	Water System Treatment Project; Water Reclamation Facility - Water Treatment Plant Design; Recreation Facility Improvements; Sidewalks and Restroom Upgrades In Parks; Debris Removal	\$ 622,138
Town of Bridger	Street And Sidewalk Repairs	\$ 20,228
Town of Broadus	Addition To City Hall For Police Department And Sewer Lagoon Repairs	\$ 15,767
Town of Broadview	General Repairs and Maintenance	\$ 8,832
Town of Brockton	Wastewater System Repairs and Street and Alley Repairs	\$ 9,657
Town of Browning	Street And Sidewalk Repairs*	\$ 23,662
Butte-Silver Bow	Road Repairs and Maintenance grant combined with county*	\$ 558,160
Town of Cascade	Replace a one-block of waterline on Front Street North, between Central Avenue and 1st Avenue North	\$ 19,463
Town of Chester	Chip Seal Town Streets	\$ 22,218
City of Chinook	Install sprinkler systems at the Margie Feist Park (North Side Park), City Hall, Griffin Park at the Water Plant, and the east and south side of the Water Plant; and Install a New Power Source to the Baseball Field Lights and a 6' Fence along the Outfield*	\$ 31,298
City of Choteau	City Hall-Fire Station Remodel and Replace Unit Heaters In Pavilion Building	\$ 43,289
Town of Circle	Add insulation to the walls of the town shop*	\$ 19,075
Town of Clyde Park	Construction Of Lathrop Street	\$ 12,640
City of Colstrip	Orchard Lift Station Replacement	\$ 46,340
City of Columbia Falls	Street Construction and Improvements	\$ 91,060
Town of Columbus	Replace Curb, Gutter, and Sidewalk on Pike Avenue	\$ 43,618
City of Conrad	Replace hydrants and Valves and Install Heating System and Spray-on Insulation Applied to the City Shop Building that Houses the City Diesel Garbage Truck*	\$ 53,636
Town of Culbertson	Architecture Design of New Fire Hall	\$ 19,842
City of Cut Bank	Final Engineering and Design Work for Railroad Street	\$ 60,725
Town of Darby	Water System Improvement Project	\$ 19,660
City of Deer Lodge	Phase 1 Sewer Rehabilitation Collection System	\$ 69,662
Town of Denton	Water-Sewer Upgrades, Building Repairs, and Street Repairs	\$ 12,309
City of Dillon	Glendale Street Project	\$ 77,015
Town of Dodson	Street Repairs	\$ 8,452
Town of Drummond	Remodeling Public Building (Town Hall), Parks Improvements, and Repairing Dike	\$ 11,626
Town of Dutton	City Park Improvements	\$ 13,623
City of East Helena	Renovate City Hall	\$ 42,607
Town of Ekalaka	Bridge and Street Repair	\$ 15,184
Town of Ennis	Town Hall Expansion and Remodel Project	\$ 24,319
Town of Eureka	Repair Main Arterial Road	\$ 24,303
Town of Fairfield	North Water Tower Cleaning and Painting and Install Water System Security Fencing*	\$ 18,042
Town of Fairview	Park Bathrooms Renovation	\$ 22,126
Town of Flaxville	Water Storage Tank Repairs	\$ 7,530
City of Forsyth	Repair City Streets*	\$ 44,277
City of Fort Benton	Chip Seal City Streets*	\$ 39,274
Town of Fort Peck	Replace Aging Fire Hydrants	\$ 12,965
Town of Froid	Water Storage Reservoir Replacement	\$ 10,991
Town of Fromberg	Street and Sidewalk Repairs	\$ 14,083
Town of Geraldine	Main Sewer Line Extension	\$ 12,480
City of Glasgow	Rehabilitate Southside Lift Station	\$ 59,873
City of Glendive	Street Reconstruction	\$ 87,933
Town of Grass Range	Water, Sewer, and Street Repairs	\$ 8,628
City of Great Falls	Partial Civic Center Reroofing - \$160,000, Police Dept re-roofing - \$180,000, Civic Center Mansfield Theatre air conditioning - \$275,000, Civic Center Convention Center air conditioning - \$195,000 and Broadwater Bay parking, landscaping and irrigation improvements - \$147,000*	\$ 957,754
City of Hamilton	Tenth Street Reconstruction	\$ 85,478
City of Hardin	New Fire Hall	\$ 66,456
City of Harlem	City Hall Renovation and Weatherization and Street Maintenance	\$ 20,775
City of Harlowton	Replace Sidewalks and Install Handicapped Curbs	\$ 25,205
City of Havre	New Lift Station and Recoat Concrete Water Tank	\$ 163,506
City of Helena	Phase One of a three-phased project to develop Centennial Park including earthwork, utilities, parking lot construction, trail construction, fencing, installation of irrigation systems, seeding, and landscaping. The second component would renovate the band shell located in Helena's Memorial Park including the purchase and installation of sound reflective acoustical tiles, a new painted mural (wall and ceiling), roofing, siding and concrete work*	\$ 498,776
Town of Hingham	Sewer Project, Street and Sidewalk Repairs, and Fire Hydrants	\$ 9,575
Town of Hobson	Extend Water to Boulevard on Main Street	\$ 11,303
Town of Hot Springs	Remodel Fire Hall and Repair Streets	\$ 18,020
Town of Hysham	Purchase gravel and cold mix to repair town streets and hire an Employee*	\$ 11,962
Town of Ismay	General Repairs and Maintenance	\$ 6,982
Town of Joliet	Sewer and Water Improvements	\$ 15,825
Town of Jordan	Improve Existing Streets	\$ 14,297
Town of Judith Gap	Fourth Avenue Street Improvements	\$ 9,180
City of Kalispell	Street Projects	\$ 339,549
Town of Kevin	Drainage, Culvert, and Road Repairs	\$ 10,717
City of Laurel	Open Ditch Mitigation Near Middle School	\$ 116,876
Town of Lavina	Install New Water System	\$ 10,574
City of Lewistown	Chip Seal Streets	\$ 114,882
City of Libby	Sewer Main Extension to Cabinet Heights	\$ 58,217
Town of Lima	Regravel Streets and Park Shelter	\$ 11,794

City of Livingston	Safety and Building Repairs to Sacajawea Park and Repairs to Sidewalks and Streets	\$ 134,301
Town of Lodge Grass	Sewer Lagoon	\$ 14,897
City of Malta	Water and Sewer Line Repairs and Maintenance and Street Paving and Repairs	\$ 41,889
Town of Manhattan	Sidewalk Extensions, Repairs, And Maintenance	\$ 36,130
Town of Medicine Lake	Sewer Lagoon Maintenance, Water Tower, And Waterworks Repairs	\$ 11,900
Town of Melstone	Install Fire Hydrants; Water and Sewer Installation to Community Center; and Sidewalks, Curbs, & Gutters	\$ 9,109
City of Miles City	Stormwater System Sediment Removal; Debris Removal	\$ 155,162
City of Missoula	North Higgins Paving Improvements, Curb Ramp Installation, Brooks St Curb Installation, Playground Installation, Bridge Installation and Bank Stabilization Greenough Park Rattlesnake Creek	\$ 1,067,051
Town of Moore	Street Repairs and Capital Improvements	\$ 10,704
Town of Nashua	Sewer and Water Main Replacements	\$ 13,415
Town of Neihart	Streets and Capital Improvements	\$ 7,632
Town of Opheim	Water System and General Repairs	\$ 9,081
Town of Outlook	Connect Water System to New Well	\$ 7,880
Town of Philipsburg	Replace Water and Sewer Lines	\$ 25,730
Town of Pinesdale	Capital Improvements and Repairs	\$ 20,833
Town of Plains	City Hall Renovations Including ADA Bathrooms and Furnace and Air Conditioning	\$ 27,302
City of Plentywood	Replace Sidewalk at City Hall and Add Gutter System, and Chip Seal Streets*	\$ 38,517
Town of Plevna	Culvert and Drainage Improvements and Chip Seal Streets	\$ 9,029
City of Polson	The 'Main Street' project which will include the replacement of existing old cast iron pipes with C900 PVC. This will include five (5) blocks on Main Street from 2nd Avenue to 7th Avenue. This improvement will enhance the hydraulic model as well as main connections, looping and fire protection*	\$ 93,466
City of Poplar	Street Repairs after Water Line Installation	\$ 21,079
City of Red Lodge	Roof Repairs on City Hall and Police Station*	\$ 52,716
Town of Rexford	Community Center Siding and Repairs	\$ 7,732
Town of Richey	Road Repairs and Maintenance	\$ 10,419
City of Ronan	Repair and Overlay Third Avenue Northwest	\$ 40,878
City of Roundup	Curbs, Gutters, and Sidewalks on Second Avenue East	\$ 45,630
Town of Ryegate	City Park Improvements	\$ 11,925
Town of Saco	Street Repairs and Maintenance	\$ 10,916
Town of St Ignatius	Street Paving and Pedestrian Path and Other Park Repairs	\$ 20,138
City of Scobey	Weatherize City Hall	\$ 26,454
City of Shelby	Street Repairs	\$ 76,228
Town of Sheridan	Street Repairs and Maintenance	\$ 18,439
City of Sidney	Twenty-Second Avenue Northwest Reconstruction	\$ 94,521
Town of Stanford	Street Intersection Improvements and Replacements	\$ 15,319
Town of Stevensville	Repair and Replace Roof on Town Hall Complex Building	\$ 37,988
Town of Sunburst	Resurface Streets, ADA Curbs and Gutters, and Other Street Repair	\$ 16,517
Town of Superior	Water Construction Phase II, Street Repairs, and Renovate Park Buildings	\$ 23,556
Town of Terry	Park Improvements	\$ 23,166
City of Thompson Falls	Sidewalk project along Main Street including 200 feet of new sidewalk; some wheel chair cut outs to existing sidewalks; and repairs to some damaged sections of sidewalk*	\$ 34,231
City of Three Forks	Chip and Seal approximately 2.37 miles of city streets*	\$ 43,000
City of Townsend	Broadway Sidewalk Replacement	\$ 40,631
City of Troy	City Hall Restoration	\$ 22,879
Town of Twin Bridges	Public Walking Path Connecting Parks	\$ 13,633
Town of Valier	Install Water Tank, New Water Meters, Install Water Lines and Trunks	\$ 20,701
Town of Virginia City	Roofing City Hall*	\$ 11,725
Town of Walkerville	Street Improvements	\$ 22,711
Town of West Yellowstone	Wastewater Improvements	\$ 31,486
Town of Westby	Resurface Streets	\$ 8,914
City of White Sulphur Springs	Patch and Repair City Streets	\$ 28,840
City of Whitefish	New Emergency Services Building	\$ 144,860
Town of Whitehall	New Ambulance Building, Wastewater Improvements; and Debris Removal	\$ 26,270
Town of Wibaux	Construction of Restrooms that are Handicapped Accessible*	\$ 17,361
Town of Winifred	New Handicapped Accessible Sidewalk Installation on Main Street; and Construction of a Security Fence around the Town's Water Tank*	\$ 9,561
Town of Winnett	Street Drainage Improvements	\$ 11,293
City of Wolf Point	Gate Valve and Hydrant Replacement	\$ 51,205

\$ 9,888,263



Appendix H  
LC 246 (LC 9994)



**Unofficial Draft Copy**

As of: August 17, 2010 (8:00am)

LC9994

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act revising the time for certain deadlines relative to school and local government financing laws; amending sections 7-6-4036, 15-10-305, 20-3-205, 20-3-209, 20-7-705, 20-9-115, 20-9-121, 20-9-131, 20-9-134, 20-9-141, 20-9-142, 20-9-151, 20-9-152, 20-9-213, 20-9-439, 20-9-501, 20-9-503, 20-9-506, 20-9-533, 20-9-534, 20-9-604, 20-10-144, 20-10-146, 20-10-147 and 20-15-313, MCA; repealing section 20-9-211, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 7-6-4036, MCA, is amended to read:

**"7-6-4036. Fixing tax levy.** (1) The governing body shall fix the tax levy for each taxing jurisdiction within the county or municipality:

(a) by the later of the ~~second~~ first ~~Monday~~ Thursday in ~~August~~ September or within ~~45~~ 30 calendar days after receiving certified taxable values;

(b) after the approval and adoption of the final budget;  
and

(c) at levels that will balance the budgets as provided in 7-6-4034.

(2) Each levy:

(a) must be made in the manner provided by 15-10-201; and

(b) except for a judgment levy under 2-9-316 or 7-6-4015,

is subject to 15-10-420."

{Internal References to 7-6-4036: None.X}

**Section 2.** Section 15-10-305, MCA, is amended to read:

**"15-10-305. Clerk and recorder to report mill levy -- department to compute and enter taxes.** (1) (a) The county clerk and recorder shall by the ~~third~~ second Monday in ~~August~~ September or within 30 calendar days after receiving certified taxable values notify the department of the number of mills needed to be levied for each taxing jurisdiction in the county. Except as provided in subsection (1)(b), the department shall compute the taxes by multiplying the number of mills times the taxable value of the property to be taxed and shall add any fees or assessments required to be levied against a person owning property. All taxes, fees, and assessments must be itemized for the property listed in the property tax record.

(b) In conveyances that result in a land split, the taxes must be based on the property as assessed on January 1 preceding the conveyance. The department is not required to include the name of the new owner in the computation of the amount of taxes, fees, and assessments to be levied against property that is part of a land conveyance if including the new owner's name would cause the department to violate the deadline provided in subsection (2).

(2) The department shall complete the computation of the amount of taxes, fees, and assessments to be levied against the property and shall notify the county clerk and recorder and the county treasurer by the second Monday in October."

{ Internal References to 15-10-305:  
15-8-201 x 20-9-369x }

**Section 3.** Section 20-3-205, MCA, is amended to read:

**"20-3-205. Powers and duties.** (1) The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:

(a) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;

(b) administer and file the oaths of members of the boards of trustees of the districts in the county in accordance with the provisions of 20-3-307;

(c) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;

(d) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

(e) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

(f) keep a transcript of the district boundaries of the

county;

(g) fulfill all responsibilities assigned under the provisions of this title regulating the organization, alteration, or abandonment of districts;

(h) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with 20-6-312 and 20-6-313;

(i) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

(j) process and, when required, act on school isolation applications in accordance with the provisions of 20-9-302;

(k) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and budget amendments, and fulfill other responsibilities assigned under the provisions of this title regulating school budgeting systems;

~~(l) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of 20-9-211;~~

~~(m)~~ (l) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of 20-9-212, 20-9-347, 20-10-145, or 20-10-146;

~~(n)~~ (m) act on any request to transfer average number belonging (ANB) in accordance with the provisions of 20-9-313(1)(c);

Unofficial Draft Copy

As of: August 17, 2010 (8:00am)

LC9994

~~(o)~~ (n) calculate the estimated budgeted general fund sources of revenue in accordance with the general fund revenue provisions of the general fund part of this title;

~~(p)~~ (o) compute the revenue and compute the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

~~(q)~~ (p) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

~~(r)~~ (q) for districts that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

~~(s)~~ (r) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

~~(t)~~ (s) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

~~(u)~~ (t) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of public education, the policies of the board of

regents relating to community college districts, or the rules of the superintendent of public instruction;

~~(v)~~ (u) administer the oath of office to trustees without the receipt of pay for administering the oath;

~~(w)~~ (v) keep a record of official acts, preserve all reports submitted to the superintendent under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to the next superintendent;

~~(x)~~ (w) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(i) the total of the cash balances of all funds maintained by the district at the beginning of the year;

(ii) the total receipts that were realized in each fund maintained by the district;

(iii) the total expenditures that were made from each fund maintained by the district; and

(iv) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

~~(y)~~ (x) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed.

(2) (a) When a district in one county annexes a district in another county, the county superintendent of the county where the



annexing district is located shall perform the duties required by this section.

(b) When two or more districts in more than one county consolidate, the duties required by this section must be performed by the county superintendent designated in the same manner as other county officials in 20-9-202."

{Internal References to 20-3-205: None.}

**Section 4.** Section 20-3-209, MCA, is amended to read:

**"20-3-209. Annual report.** The county superintendent of each county shall submit an annual report to the superintendent of public instruction ~~not later than the second Monday in~~ on or before September 15. The report must be completed on the forms supplied by the superintendent of public instruction and must include:

(1) the final budget information for each district of the county, as prescribed by 20-9-134(1);

(2) the revenue amounts used to establish the levy requirements for the county school fund supporting school district transportation schedules, as prescribed by 20-10-146, and for the county school funds supporting elementary and high school district retirement obligations, as prescribed by 20-9-501;

(3) the financial activities of each district of the county for the immediately preceding school fiscal year as provided by the trustees' annual report to the county superintendent under the provisions of 20-9-213(6); and

(4) any other information that may be requested by the superintendent of public instruction that is within the superintendent's authority prescribed by this title."

{*Internal References to 20-3-209:*  
*20-3-106x*}

**Section 5.** Section 20-7-705, MCA, is amended to read:

**"20-7-705. Adult education fund.** (1) A separate adult education fund must be established when an adult education program is operated by a district or community college district. The financial administration of the fund must comply with the budgeting, financing, and expenditure provisions of the laws governing the schools.

(2) Whenever the trustees of a district establish an adult education program under the provisions of 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult education fund is the depository for all district money received by the district in support of the adult education program. Federal and state adult education program money must be deposited in the miscellaneous programs fund.

(3) The trustees of a district may authorize the levy of a tax on the taxable value of all taxable property within the district for the operation of an adult education program.

(4) Whenever the trustees of a district decide to offer an adult education program during the ensuing school fiscal year, they shall budget for the cost of the program in the adult education fund of the final budget. Any expenditures in support

of the adult education program under the final adult education budget must be made in accordance with the financial administration provisions of this title for a budgeted fund.

(5) When a tax levy for an adult education program is included as a revenue item on the final adult education budget, the county superintendent shall report the levy requirement to the county commissioners ~~on the fourth Monday of August~~ by the first Tuesday in September and a levy on the district must be made by the county commissioners in accordance with 20-9-142."

{ Internal References to 20-7-705: None.x }

**Section 6.** Section 20-9-115, MCA, is amended to read:

"**20-9-115. Notice of final budget meeting.** Between July 1 and August ~~4~~ 10 of each year, the clerk of each district shall publish one notice, in the local or county newspaper that the trustees of the district determine to be the newspaper with the widest circulation in the district, stating the date, time, and place that the trustees will meet for the purpose of considering and adopting the final budget of the district, stating that the meeting of the trustees may be continued from day to day until the final adoption of the district's budget, and stating that any taxpayer in the district may appear at the meeting and be heard for or against any part of the budget."

{ Internal References to 20-9-115:  
20-9-131 x 20-15-404x }

**Section 7.** Section 20-9-121, MCA, is amended to read:

"20-9-121. County treasurer's statement of cash balances and bond information. (1) By July ~~10~~ 20, the county treasurer shall prepare a statement for each district showing the amount of cash on hand for each fund maintained by the district at the close of the last-completed school fiscal year. The county treasurer shall also include on each district's statement the details on the obligation for bond retirement and interest for the school fiscal year just beginning. The format of the statement on fund cash balances and bond information must be prescribed by the superintendent of public instruction.

(2) By July ~~10~~ 20, the county treasurer shall prepare a statement for each county school fund supported by countywide levies, showing the amount of cash on hand at the beginning of the school fiscal year, the receipts and apportionments, and the amount of cash on hand at the end of the school fiscal year, for each county school fund maintained during the immediately preceding school fiscal year. The format of this statement must be prescribed by the superintendent of public instruction.

(3) ~~On or before~~ By July 10 20, the county treasurer shall deliver the statements of district and county fund cash balances and the bond information for each district to the county superintendent, who shall forward the information to each district."

{ Internal References to 20-9-121:  
20-9-438x }

**Section 8.** Section 20-9-131, MCA, is amended to read:

"20-9-131. **Final budget meeting.** (1) On or before August 15, on the date and at the time and place stated in the notice published pursuant to 20-9-115, the trustees of each district shall meet to consider all budget information and any attachments required by law.

(2) The trustees may continue the meeting from day to day but shall adopt the final budget for the district and determine the amounts to be raised by tax levies for the district not later than ~~the fourth Monday in August~~ 20 and before the computation of the general fund net levy requirement by the county superintendent and the fixing of the tax levies for each district. Any taxpayer in the district may attend any portion of the trustees' meeting and be heard on the budget of the district or on any item or amount contained in the budget.

(3) Upon final approval, the trustees shall deliver the adopted budget, including the amounts to be raised by tax levies, to the county superintendent of schools within ~~5~~ 3 days."

{ Internal References to 20-9-131:  
20-3-322x }

**Section 9.** Section 20-9-134, MCA, is amended to read:

"20-9-134. **Completion, filing, and delivery of final budgets.** After the final budget of the elementary, high school, or community college district has been adopted by the trustees, the county superintendent shall complete all the remaining portions of the budget forms and shall:

(1) send the final budget information to the superintendent

of public instruction, on the forms provided by the superintendent, on or before ~~the second Monday~~ in September 15; and

(2) in the case of the community college districts, send the final budget information to the board of regents, on the forms provided by the community college coordinator, on or before September 1."

{*Internal References to 20-9-134:*  
20-3-209 x 20-9-344 x 20-15-404x}

**Section 10.** Section 20-9-141, MCA, is amended to read:

**"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid and the special education allowable cost payment for the district by totaling:

(i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in 20-9-303; and

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established

under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid;

(iii) anticipated oil and natural gas production taxes;

(iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and

(v) school district block grants distributed under 20-9-630.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement.

(d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d)

from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners ~~on the fourth Monday of August~~ by the first Tuesday in September by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) For each school district, the department of revenue shall calculate and report to the county superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross proceeds under 15-23-703."

{*Internal References to 20-9-141:*



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20-9-104 x 20-9-104 x 20-9-235 x 20-9-308x  
20-9-308 x 20-9-353 x 20-9-515x }

Section 11. Section 20-9-142, MCA, is amended to read:

"20-9-142. Fixing and levying taxes by board of county commissioners. ~~On the fourth Monday in August~~ By the first Tuesday in September, the county superintendent shall place before the board of county commissioners the final adopted budget of the district. It is the duty of the board of county commissioners, as provided in 7-6-4036, to fix and levy on all the taxable value of all the real and personal property within the district all district and county taxation required to finance, within the limitations provided by law, the final budget."

{ Internal References to 20-9-142:

20-6-412 x 20-7-705 A 20-9-141 A 20-9-439A  
20-9-501A 20-9-503 A 20-9-506 A 20-9-533 A  
20-10-144 A 20-10-146 A 20-10-147A }

Section 12. Section 20-9-151, MCA, is amended to read:

"20-9-151. Budgeting procedure for joint districts. (1) The trustees of a joint district shall adopt a budget according to the school budgeting laws and send a copy of the budget to the county superintendent of each county in which a part of the joint district is located. After approval by the trustees of the joint district, the final budgets of joint districts must be filed in the office of the county superintendent of each county in which a part of a joint district is located.

(2) The county superintendents receiving the budget of a

joint district shall jointly compute the estimated budget revenue and determine the number of mills that need to be levied in the joint district for each fund for which a levy is to be made. The superintendent of public instruction shall establish a communication procedure to facilitate the joint estimation of revenue and determination of the tax levies.

(3) After determining, in accordance with law, the number of mills that need to be levied for each fund included on the final budget of the joint district, a joint statement of the required mill levies must be prepared and signed by the county superintendents involved in the computation. A copy of the statement must be delivered to the board of county commissioners of each county in which a part of the joint district is located ~~not later than the Friday immediately preceding the fourth Monday in August~~ by the first Tuesday in September."

{Internal References to 20-9-151:  
20-3-106 x 20-9-501 A 20-9-501A}

**Section 13.** Section 20-9-152, MCA, is amended to read:

**"20-9-152. Fixing and levying taxes for joint districts.**

(1) At the time of fixing levies for county and school purposes ~~on the fourth Monday in August~~ by the later of the first Thursday in September or within 30 calendar days after receiving certified taxable values, the board of county commissioners of each county

in which a part of a joint district is located shall fix and levy taxes on that portion of the joint district located in each board's county at the number of mills for each levy recommended by the joint statement of the county superintendents.

(2) The board of county commissioners shall include in the amounts to be raised by the county levies for schools all the amounts required for the final budget of each part of a joint district located in the county, in accordance with the recommendations of the county superintendent."

{ Internal References to 20-9-152:  
20-9-501x }

**Section 14.** Section 20-9-213, MCA, is amended to read:

**"20-9-213. Duties of trustees.** The trustees of each district have the authority to transact all fiscal business and execute all contracts in the name of the district. A person other than the trustees acting as a governing board may not expend money of the district. In conducting the fiscal business of the district, the trustees shall:

(1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school money for each fund and account maintained by the district in accordance with generally accepted accounting principles and the rules prescribed by the superintendent of public instruction. The record of the accounting must be open to public inspection at any meeting of the trustees.

(2) authorize all expenditures of district money and cause

warrants or checks, as applicable, to be issued for the payment of lawful obligations;

(3) issue warrants or checks, as applicable, on any budgeted fund in anticipation of budgeted revenue, except that the expenditures may not exceed the amount budgeted for the fund;

(4) invest any money of the district, whenever in the judgment of the trustees the investment would be advantageous to the district, either by directing the county treasurer to invest any money of the district or by directly investing the money of the district in eligible securities, as identified in 7-6-202, in savings or time deposits in a state or national bank, building or loan association, savings and loan association, or credit union insured by the FDIC or NCUA located in the state, or in a repurchase agreement that meets the criteria provided for in 7-6-213. All interest collected on the deposits or investments must be credited to the fund from which the money was withdrawn, except that interest earned on account of the investment of money realized from the sale of bonds must be credited to the debt service fund or the building fund, at the discretion of the board of trustees. The placement of the investment by the county treasurer is not subject to ratable distribution laws and must be done in accordance with the directive from the board of trustees. A district may invest money under the state unified investment program established in Title 17, chapter 6, or in a unified investment program with the county treasurer, with other school districts, or with any other political subdivision if the unified investment program is limited to investments that meet the

requirements of this subsection (4), including those investments authorized by the board of investments under Title 17, chapter 6. A school district that enters into a unified investment program with another school district or political subdivision other than the state shall do so under the auspices of and by complying with the provisions governing interlocal cooperative agreements authorized under Title 7, chapter 11, and educational cooperative agreements authorized under Title 20, chapter 9, part 7. A school district either shall contract for investment services with any company complying with the provisions of Title 30, chapter 10, or shall contract with the state board of investments for investment services.

(5) cause the district to record each transaction in the appropriate account before the accounts are closed at the end of the fiscal year in order to properly report the receipt, use, and disposition of all money and property for which the district is accountable;

(6) report annually to the county superintendent, not later than August 15, the financial activities of each fund maintained by the district during the last-completed school fiscal year, on the forms prescribed and furnished by the superintendent of public instruction. Annual fiscal reports for joint school districts must be submitted not later than ~~September 1~~ August 15 to the county superintendent of each county in which part of the joint district is situated.

(7) whenever requested, report any other fiscal activities to the county superintendent, superintendent of public

instruction, or board of public education;

(8) cause the accounting records of the district to be audited as required by 2-7-503; and

(9) perform, in the manner permitted by law, other fiscal duties that are in the best interests of the district."

{Internal References to 20-9-213:

2-7-503	x	20-3-106	x	20-3-209	x	20-3-325x
20-7-306	x	20-9-141	A	20-9-212	x	20-9-439A
20-9-441	x	20-9-503	A	20-9-508	x	20-10-144A}

**Section 15.** Section 20-9-439, MCA, is amended to read:

**"20-9-439. Computation of net levy requirement for general obligation bonds -- procedure when levy inadequate.** Subject to 20-6-326, the following provisions apply:

(1) The county superintendent shall compute the levy requirement for each school district's general obligation debt service fund on the basis of the following procedure:

(a) Determine the total money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

(iii) any state advance for school facilities distributed to a qualified district under the provisions of 20-9-346, 20-9-370,

and 20-9-371;

(iv) funds transferred from the impact aid fund established pursuant to 20-9-514 that are authorized by 20-9-437(2) to be used to repay the district's bonds; and

(v) any other money, including money from federal sources, anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from sources such as legally authorized money transfers into the debt service fund or from rental income, excluding any guaranteed tax base aid.

(b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), from the final budget for the debt service fund as established in 20-9-438.

(2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported to the county commissioners ~~on the fourth Monday of August~~ by the first Tuesday in September by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school district is located for a writ of mandate to compel the board of

county commissioners of the county to make a sufficient levy for payment purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be a charge against the school district or the county."

{*Internal References to 20-9-439:*  
20-9-438 x 20-9-506 A 20-15-404x}

**Section 16.** Section 20-9-501, MCA, is amended to read:

**"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers' retirement system or the public employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal social security system requiring employer contributions



shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems as provided in subsection (2) (a). The district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's or the cooperative's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the retirement fund for the following:

(i) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from state or local funding sources;

(ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321, or are paid from the miscellaneous programs

fund, provided for in 20-9-507, from money received from the medicaid program, pursuant to 53-6-101;

(iii) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

(iv) a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514; and.

~~(v) for the 2011 biennium only, a district employee whose salary and health-related benefits, if any health-related benefits are provided to the employee, are budgeted in the district general fund but are paid from state fiscal stabilization funds received pursuant the American Recovery and Reinvestment Act of 2009, Public Law 111-5.~~

(b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance systems from the funding source that pays the employee's salary.

(3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial

administration provisions of this title.

(4) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year;

(ii) oil and natural gas production taxes;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

(v) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final retirement fund

budget.

(5) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners ~~on the fourth Monday of August~~ by the first Tuesday in September as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

(6) The county commissioners shall fix and set the county levy or district levy in accordance with 20-9-142.

(7) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(8) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county

superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

(9) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (5) (a) by the sum of:

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000.

(10) The levy for a community college district may be applied only to property within the district.

(11) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements for county school funds supporting elementary and high school district retirement obligations to the superintendent of public instruction not later than ~~the second Monday in~~ September 15. The report must be completed on forms supplied by the superintendent of public instruction."

{ Internal References to 20-9-501:

17-3-213 x 19-20-605 x 20-3-209 A 20-6-702x }

**Section 17.** Section 20-9-503, MCA, is amended to read:

**"20-9-503. Budgeting, tax levy, and use of building reserve**

**fund.** (1) Whenever an annual building reserve authorization to budget is available to a district, the trustees shall include the authorized amount in the building reserve fund of the final budget. The county superintendent shall report the amount as the building reserve fund levy requirement to the county commissioners ~~on the fourth Monday of August~~ by the first Tuesday in September, and a levy on the district must be made by the county commissioners in accordance with 20-9-142.

(2) The trustees of any district maintaining a building reserve fund may:

(a) pledge the revenue for loans from the building reserve fund levy for up to 5 years. However, loan proceeds may be used only for projects authorized by 20-9-502.

(b) expend money from the fund for the purpose or purposes for which it was authorized without the specific expenditures being included in the final budget when, in their discretion, there is a sufficient amount of money to begin the authorized projects. The expenditures may not invalidate the district's authority to continue the annual imposition of the building reserve taxation authorized by the electors of the district.

(3) Whenever there is money credited to the building reserve fund for which there is no immediate need, the trustees may invest the money in accordance with 20-9-213(4). The interest earned from the investment must be credited to the building reserve fund or the debt service fund, at the discretion of the trustees, and expended for any purpose authorized by law for the fund."

{Internal References to 20-9-503:  
20-9-235 x 20-9-471 x 20-15-404x}

**Section 18.** Section 20-9-506, MCA, is amended to read:

**"20-9-506. Budgeting and net levy requirement for nonoperating fund.** (1) The trustees of any district which does not operate a school or will not operate a school during the ensuing school fiscal year shall adopt a nonoperating school district budget in accordance with the school budgeting provisions of this title. ~~Such~~ The nonoperating budget ~~shall~~ must contain the nonoperating fund and, when appropriate, a debt service fund. The nonoperating budget form ~~shall~~ must be promulgated and distributed by the superintendent of public instruction under the provisions of 20-9-103.

(2) After the adoption of a final budget for the nonoperating fund, the county superintendent shall compute the net levy requirement for ~~such~~ the fund by subtracting from the amount authorized by ~~such~~ the budget the sum of:

(a) the end-of-the-year cash balance of the nonoperating fund or, if it is the first year of nonoperation, the cash balance determined under the transfer provisions of 20-9-505;

(b) the estimated state and county transportation reimbursements; and

(c) any other ~~moneys~~ money that may become available during the ensuing school fiscal year.

(3) The county superintendent shall report the net nonoperating fund levy requirement and any net debt service fund

levy requirement determined under the provisions of 20-9-439 to the county commissioners ~~on the fourth Monday of August by the first Tuesday in September~~, and ~~such the levies shall~~ must be made on the district by the county commissioners in accordance with 20-9-142."

{*Internal References to 20-9-506:*  
*20-3-106x*}

**Section 19.** Section 20-9-533, MCA, is amended to read:

**"20-9-533. Technology acquisition and depreciation fund -- limitations.** (1) The trustees of a district may establish a technology acquisition and depreciation fund for school district expenditures incurred and depreciation accrued for:

(a) the purchase, rental, repair, maintenance, and depreciation of technological equipment, including computers and computer network access; and

(b) associated technical training for school district personnel.

(2) Any expenditures from the technology acquisition and depreciation fund must be made in accordance with the financial administration requirements for a budgeted fund pursuant to this title. The trustees of a district shall fund the technology acquisition and depreciation fund with:

(a) the state money received under 20-9-534; and

(b) other local, state, private, and federal funds received for the purpose of funding technology or technology-associated training.



(3) In depreciating the technological equipment of a school district, the trustees may include in the district's budget, contingent upon voter approval of a levy under subsection (6) and pursuant to the school budgeting requirements of this title, an amount each fiscal year that does not exceed 20% of the original cost of any technological equipment, including computers and computer network access, that is owned by the district. The amount budgeted may not, over time, exceed 150% of the original cost of the equipment.

(4) The annual revenue requirement for each district's technology acquisition and depreciation fund determined within the limitations of this section must be reported by the county superintendent of schools to the board of county commissioners ~~on the fourth Monday of August~~ by the first Tuesday in September as the technology acquisition and depreciation fund levy requirement for that district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(5) Any expenditure of technology acquisition and depreciation fund money must be within the limitations of the district's final technology acquisition and depreciation fund budget and the school financial administration provisions of this title.

(6) In addition to the funds received pursuant to subsection (2), the trustees of a school district may submit a proposition to the qualified electors of the district to approve an additional levy to fund the depreciation of technological equipment authorized under this section. The election must be

called and conducted in the manner prescribed by this title for school elections and in the manner prescribed by 15-10-425.

(7) The technology proposition is approved if a majority of those electors voting at the election approve the levy.

Notwithstanding any other provision of law, the levy under subsection (6) is subject to 15-10-420.

(8) The trustees of a district may not use revenue in the technology acquisition and depreciation fund to finance contributions to the teachers' retirement system, the public employees' retirement system, or the federal social security system or for unemployment compensation insurance."

{ Internal References to 20-9-533:  
20-9-534x }

**Section 20.** Section 20-9-534, MCA, is amended to read:

**"20-9-534. Statutory appropriation for school technology purposes.** (1) The amount of \$1 million a year is statutorily appropriated, as provided in 17-7-502, from the school facility and technology account established in 20-9-516 for grants for school technology purposes.

(2) By ~~September 1~~ the third Friday in July, the superintendent of public instruction shall allocate the annual statutory appropriation for school technology purposes to each district based on the ratio that each district's BASE budget bears to the statewide BASE budget amount for all school districts multiplied by the amount of money provided in 20-9-343

for the purposes of 20-9-533 in the prior fiscal year."

{ Internal References to 20-9-534:  
17-7-502            20-9-533 }

**Section 21.** Section 20-9-604, MCA, is amended to read:

**"20-9-604. Gifts, legacies, devises, and administration of endowment fund.** (1) The trustees of a district may accept gifts, legacies, and devises, subject to the conditions imposed by the deed of the donor or the will of the testator or without any conditions imposed. Unless otherwise specified by the donor, devisor, or testator, when a district receives a gift, legacy, or devise, the trustees shall deposit the gift, legacy, devise, or the proceeds in an endowment fund. The trustees shall administer the endowment fund so as to preserve the principal from loss, and only the income from the fund may be appropriated for any purpose.

(2) Unless the conditions of the endowment instrument require an immediate disbursement of the money, the money deposited in the endowment fund must be invested by the trustees according to the provisions of the Uniform Management of Institutional Funds Act, Title 72, chapter 30.

(3) All interest collected on the deposits or investments must be credited to the endowment fund. No portion of the endowment fund may be loaned to the district, nor may any money of the fund be invested in warrants of the district.

(4) Whenever a district has been abandoned, the endowment

fund of the abandoned district must be transferred and placed in the endowment fund in the district to which the territory is attached.

(5) As the custodian of the endowment fund, the county treasurer is liable on the treasurer's official bond for the endowment fund of any district of the county. ~~No later than~~ By July 1 20 ~~each school fiscal year~~, the county treasurer shall report to the trustees of each district on the condition of its endowment fund, including the status of the investments that have been made with the money of the fund. The county treasurer shall also include the endowment fund in the treasurer's reports to the board of county commissioners.

(6) The trustees of any district having an endowment fund shall provide suitable memorials for all persons or associations of persons making gifts to the district that become a part of the endowment fund."

{*Internal References to 20-9-604: None.x*}

**Section 22.** Section 20-10-144, MCA, is amended to read:

**"20-10-144. Computation of revenue and net tax levy requirements for district transportation fund budget.** Before the second Monday of August, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate for each bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by the district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted in the budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the contingency amount on the budget must be reduced to the limitation amount and used in this determination of the schedule amount; plus

(e) any estimated costs for transporting a child out of district when the child has mandatory approval to attend school in a district outside the district of residence.

(2) (a) The schedule amount determined in subsection (1) or the total transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted on the following basis:

(i) one-half is the budgeted state transportation reimbursement; and

(ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

(b) When the district has a sufficient amount of fund balance for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and fund balance reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

(c) The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions

of 20 U.S.C. 7701, et seq., or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for a child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

(e) anticipated revenue from coal gross proceeds under 15-23-703;

(f) anticipated oil and natural gas production taxes;

(g) anticipated local government severance tax payments for calendar year 1995 production;

(h) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through 20-5-324;

(i) school district block grants distributed under 20-9-630;

(j) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

(k) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final

transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4) (a).

(5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners ~~on the fourth Monday of August~~ by the first Tuesday in September by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

{*Internal References to 20-10-144:*  
*20-10-146x*}

**Section 23.** Section 20-10-146, MCA, is amended to read:

**"20-10-146. County transportation reimbursement.** (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the



superintendent of public instruction must be the same as the state transportation reimbursement payment, except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of 20-5-321.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of 20-5-321;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year;

(ii) oil and natural gas production taxes;

(iii) anticipated local government severance tax payments for calendar year 1995 production;

(iv) coal gross proceeds taxes under 15-23-703;

(v) countywide school transportation block grants distributed under 20-9-632;

(vi) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund;

(vii) federal forest reserve funds allocated under the provisions of 17-3-213; and

(viii) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners ~~on the fourth Monday of August~~ by the first Tuesday in September by the county superintendent, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements to the superintendent of public instruction not later than ~~the second Monday in September~~ 15. The report must be completed on forms supplied by the superintendent of public instruction.

(5) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments."

{ Internal References to 20-10-146:

17-3-213	x	20-3-205	x	20-3-209	A	20-10-104x
20-10-104	x	20-10-104	x	20-10-141	x	20-10-142x
20-10-144A}						

**Section 24.** Section 20-10-147, MCA, is amended to read:

**"20-10-147. Bus depreciation reserve fund.** (1) The trustees of a district owning a bus or a two-way radio used for purposes of transportation, as defined in 20-10-101, or for purposes of conveying pupils to and from school functions or activities may establish a bus depreciation reserve fund to be used for the conversion, remodeling, or rebuilding of a bus or for the replacement of a bus or radio. The trustees of a district may also use the bus depreciation reserve fund to purchase an additional bus for purposes of transportation, as defined in 20-10-101.

(2) Whenever a bus depreciation reserve fund is established, the trustees may include in the district's budget, in accordance with the school budgeting provisions of this title, an amount each year that does not exceed 20% of the original cost of a bus or a two-way radio. The amount budgeted may not, over

time, exceed 150% of the original cost of a bus or two-way radio. The annual revenue requirement for each district's bus depreciation reserve fund, determined within the limitations of this section, must be reported by the county superintendent to the county commissioners ~~on the fourth Monday of August~~ by the first Tuesday in September as the bus depreciation reserve fund levy requirement for that district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) Any expenditure of bus depreciation reserve fund money must be within the limitations of the district's final bus depreciation reserve fund budget and the school financial administration provisions of this title and may be made only to convert, remodel, or rebuild buses, to replace the buses or radios, or for the purchase of an additional bus as provided in subsection (1), for which the bus depreciation reserve fund was created.

(4) Whenever the trustees of a district maintaining a bus depreciation reserve fund sell all of the district's buses and consider it to be in the best interest of the district to transfer any portion or all of the bus depreciation reserve fund balance to any other fund maintained by the district, the trustees shall submit the proposition to the electors of the district. The electors qualified to vote at the election shall qualify under 20-20-301, and the election must be called and conducted in the manner prescribed by this title for school elections. If a majority of those electors voting at the election approve the proposed transfer from the bus depreciation reserve

fund, the transfer is approved and the trustees shall immediately order the county treasurer to make the approved transfer."

{Internal References to 20-10-147: None.x}

**Section 25.** Section 20-15-313, MCA, is amended to read:

"**20-15-313. Tax levy.** On ~~By~~ the ~~second~~ first ~~Monday~~ Thursday in ~~August~~ September, the board of county commissioners of any county where a community college district is located shall, subject to 15-10-420, fix and levy a tax on all the real and personal property within the community college district at the rate required to finance the mandatory mill levy prescribed by 20-15-312(1)(b) and the voted levy prescribed by 20-15-311(5) if one has been approved by the voters. When a community college district has territory in more than one county, the board of county commissioners in each county shall fix and levy the community college district tax on all the real and personal property of the community college district situated in its county."

{Internal References to 20-15-313: None.x}

NEW SECTION. **Section 26.** {standard} **Repealer.** The following section of the Montana Code Annotated is repealed:  
20-9-211. Annual financial report of county superintendent.

{Internal References to 20-9-211: 20-3-205}

NEW SECTION. **Section 27.** {standard} **Effective date.** [This act] is effective on passage and approval.

**Unofficial Draft Copy**

As of: August 17, 2010 (8:00am)

LC9994

- END -

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**Appendix I**  
**MUS Policy Goals and Accountability Measures**







# Education and Local Government Interim Committee

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## 61st Montana Legislature

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GARY BRANAE  
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JOHN FLEMING  
BOB LAKE  
EDITH MCCLAFFERTY

### COMMITTEE STAFF

LEANNE KURTZ, Research Analyst  
JEREMY GERSONVITZ, Staff Attorney  
CLAUDIA (C.J.) JOHNSON, Secretary

## SHARED POLICY GOALS AND ACCOUNTABILITY MEASURES FOR THE MONTANA UNIVERSITY SYSTEM 2013 BIENNIUM

This document on shared policy goals and accountability measures represents a merging of the following four efforts that have involved leaders from the legislature, the executive and the university system over the past several years:

- Board of Regents strategic goals and objectives
- Shared policy goals and accountability measures developed by the Education and Local Government Interim Committee (ELG) Subcommittee on Shared Policy Goals (formerly Joint Sub Committee on Postsecondary Education Policy and Budget)
- The Shared Leadership for a Stronger Montana Economy initiatives
- The University System campus quality measures

The shared policy goals developed collaboratively between the ELG Subcommittee and the Montana University System reflect a shared commitment to quality and to:

1. Access and affordability
2. Workforce and economic development
3. Efficiency and effectiveness

This document is nonbinding. The ELG shall review, update, approve, and renew this understanding each biennium with the Montana Board of Regents so that it may become the basis of state public policy in regard to the Montana University System.

As a statement of public policy goals for higher education in Montana, this document reflects the ELG's commitment to academic quality throughout the Montana University System such that funding a high quality postsecondary education is a critical goal of the State of Montana. This document will provide the policy direction needed to maintain a quality postsecondary education system in Montana.

The authors of this document urge that it be used by the legislature in the 2011 legislative session to frame education budget initiatives and other policy recommendations for the 2013 biennium.

## MONTANA UNIVERSITY SYSTEM SHARED POLICY GOALS

WHEREAS, Article VIII, section 12, of the Montana Constitution vests in the Legislature the responsibility to ensure strict accountability of all revenue received and spent by the state, counties, cities, and towns and all other local governmental entities; and

WHEREAS, Article X, section 9, of the Montana Constitution vests in the Board of Regents of Higher Education the full power, responsibility, and authority to supervise, coordinate, manage, and control the Montana University System and to supervise and coordinate other public institutions assigned to it by law; and

WHEREAS, the Montana University System has increasingly, and to positive effect, shared leadership with the Education and Local Government Interim Committee; and

WHEREAS, shared policy goals must be systematically tied to accountability measures in order to ensure timely and effective implementation of policy; and

WHEREAS, the ELG Subcommittee on Shared Policy Goals and the Montana Board of Regents have identified statewide public postsecondary education policy goals and accountability measures with the input and feedback of the Montana University System;

This UNDERSTANDING crafted by the Education and Local Government Interim Committee and the Montana University System, identifies the statewide public postsecondary education policy goals and related accountability measures (see Table 1 and attached Board of Regents Strategic Plan) that will be used as a policy goal setting and assessment tool for policymakers, the university system, and the public in evaluating the achievement of the policy goals; and that will be used as a guide to drive decision packages and funding mechanisms for the state funding that is appropriated to the Montana University System by the Montana State Legislature.

Furthermore:

1. The Montana University System shall prepare a Shared Policy Goals and Accountability Measures Report presenting appropriate and current data for these goals and accountability measure in an easy-to-read format.
2. This report shall be presented to the House and Senate Education Committees and the Joint Appropriations Subcommittee on Education by the 10<sup>th</sup> legislative day of the 62nd Legislature (2011 legislative session).
3. This report shall be posted to the Board of Regents, Office of the Commissioner of Higher Education, and Education and Local Government Interim Committee websites by January 1 each odd-numbered year..

**Table 1 -- Shared Policy Goals and Accountability Measures for the Montana University System**

**Shared Goal I:**

**Increase the overall educational attainment of Montanans through increased participation, retention and completion rates in the Montana University System.**

<b>Goals</b>	<b>Objectives</b>	<b>Measures</b>
1.1 Prepare students for success in life through quality higher education	<ol style="list-style-type: none"> <li>1. Improve postsecondary education participation rates</li> <li>2. Increase retention rates within the MUS</li> <li>3. Increase completion rates within the MUS</li> </ol>	<ul style="list-style-type: none"> <li>• College continuation rates</li> <li>• Freshmen retention rates</li> <li>• Graduation rates</li> </ul>
1.2 Make higher education more affordable by offering more need-based aid and scholarships	<ol style="list-style-type: none"> <li>1. Reduce the amount of unmet student need for financial aid</li> <li>2. Increase the percentage of students who receive financial aid or scholarships</li> <li>3. Increase the average aid/scholarship award amount</li> </ol>	<ul style="list-style-type: none"> <li>• Unmet need of students receiving Pell grants</li> <li>• % of 1<sup>st</sup>-time, full-time students receiving aid</li> <li>• Average aid awarded to 1<sup>st</sup>-time, full-time students</li> </ul>
1.3 Promote postsecondary education affordability	<ol style="list-style-type: none"> <li>1. Increase the amount of state support as a percentage of total personal income relative to peer states and historical levels</li> <li>2. Decrease tuition as a percentage of median household income</li> </ol>	<ul style="list-style-type: none"> <li>• State support for higher education per capita and per \$1,000 of personal income</li> <li>• Ratio of tuition and fees to median household income</li> </ul>
1.4 Work collaboratively with the K-12 system to increase high school academic preparedness, completion, and concurrent enrollment programs	<ol style="list-style-type: none"> <li>1. Expand outreach to at-risk and disadvantaged students as to the importance and accessibility of postsecondary education and the quality of the MUS</li> <li>2. Expand outreach to top academic achievers graduating from Montana high schools</li> <li>3. Increase dual enrollment and advanced placement</li> </ol>	<ul style="list-style-type: none"> <li>• At-risk and disadvantaged student enrollment</li> <li>• % of entering students with ACT scores in the top quartile</li> <li>• # of MT high school students taking AP exams and college courses</li> </ul>
1.5 Increase enrollment of traditional and non-traditional students	<ol style="list-style-type: none"> <li>1. Increase enrollment in two-year programs</li> <li>2. Increase programs and classes for non-traditional students, including evening and weekend programs</li> </ol>	<ul style="list-style-type: none"> <li>• Enrollment at two-year institutions</li> <li>• Enrollment of non-traditional students (students 25 years and older)</li> </ul>
1.6 Improve distance learning by coordinating online delivery of education across the entire Montana University System	<ol style="list-style-type: none"> <li>1. Increase student enrollment in online courses</li> <li>2. Increase the number of online courses and degrees</li> <li>3. Increase the number of workforce development degree programs and certificates offered</li> </ol>	<ul style="list-style-type: none"> <li>• Enrollment in distance learning courses</li> <li>• Number of distance learning courses offered at two-year and four-year colleges</li> </ul>

**Shared Goal II:**

**Assist in the expansion and improvement of the state's economy through the development of high value jobs and the diversification of the economic base.**

<b>Goals</b>	<b>Objectives</b>	<b>Measures</b>
2.1 Increase responsiveness to workforce development needs by expanding and developing programs in high demand fields	<ol style="list-style-type: none"> <li>1. Increase employer satisfaction with graduates</li> <li>2. Increase degrees and certificates awarded in high demand occupational fields</li> <li>3. Increase job placement rates</li> <li>4. Increase the number of degrees and certificates conferred in two-year programs</li> </ol>	<ul style="list-style-type: none"> <li>• Program level employer satisfaction surveys</li> <li>• # of degrees and certificates awarded in health-care and construction</li> <li>• # of graduates finding employment in MT in health-care and construction</li> <li>• # of associate degrees and certificates awarded</li> </ul>

2.2 Establish collaborative programs among institutions, the private sector, and the state to expand research, technology transfer, the commercialization of new technologies, and the development of our entrepreneurs	<ol style="list-style-type: none"> <li>1. Increase research and development receipts and expenditures</li> <li>2. Increase technology licenses with Montana businesses</li> </ol>	<ul style="list-style-type: none"> <li>• MUS research and development expenditures</li> <li>• MUS technology transfer activity</li> </ul>
<p>PROPOSED</p> <p>2.3 Expand graduate education capacity and opportunities in order to increase educational attainment of Montanans, fuel economic development, grow the research and development enterprise, and contribute to the cultural and social fabric of Montana and the region</p>	<ol style="list-style-type: none"> <li>1. Increase the number and percentage of graduate students in the Montana University System</li> <li>2. Increase graduate degree production, maintaining a strong concentration in science, technology, engineering, and math (STEM) fields</li> </ol>	<ul style="list-style-type: none"> <li>• Graduate student enrollment</li> <li>• Graduate degrees awarded (per 100 grad student FTE, number and percent in STEM)</li> </ul>

**Shared Goal III:**

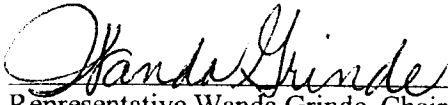
**Improve institutional and system efficiency and effectiveness.**

Goals	Objectives	Measures
3.1 Improve accuracy, consistency and accessibility of system data, including the continued development of a comprehensive data warehouse	<p>BOR Strategic Initiatives</p> <ol style="list-style-type: none"> <li>1. Develop an integrated information system</li> <li>2. Continue to develop and improve the MUS education network</li> <li>3. Maintain and work to improve a system-wide data warehouse</li> </ol>	<p>(progress on System Initiatives, 2010)</p> <ul style="list-style-type: none"> <li>• Comm. College Banner Integration, Data Standardization Project, Northern Tier Network, K-20 Data Linkage</li> </ul>
3.2 Deliver efficient and coordinated services	<ol style="list-style-type: none"> <li>1. Expenditures per student relative to peer institutions and history</li> <li>2. Percent of expenditures in instruction, research, public service, academic support, student services, institutional support, plant O&amp;M, and scholarships</li> <li>3. Improve articulation and transferability among all two- and 4-year institutions including community colleges and tribal colleges</li> </ol>	<ul style="list-style-type: none"> <li>• Total revenue per student FTE (MT, WICHE Regional Peers)</li> <li>• MUS expenditures by category</li> <li>• Status of common course numbering initiative</li> </ul>
3.3 Biennial review/update of the budget allocation model consistent with state and system policy goals and objectives	<ol style="list-style-type: none"> <li>1. Focus on financing for the state system, not only funding for the individual campuses</li> <li>2. Be transparent as to the policy choices of the Regents, Legislature, and executive branch</li> <li>3. Provide a framework for dealing with allocations to institutions, tuition revenues, financial aid, and mandatory fee waivers</li> <li>4. Have a specific fund dedicated to furthering Regents' priorities</li> <li>5. Protect institutional viability by moderating the short-term effects of enrollment changes</li> <li>6. Provide incentives for institutions to collaborate as a system</li> <li>7. Ensure equity of funding among all institutions</li> <li>8. Maintain an adequate base of funding and education quality for all institutions</li> <li>9. Maintain a differential between 2-year and 4-year tuition</li> </ol>	<p>(progress on System Initiatives, 2010)</p> <ul style="list-style-type: none"> <li>• Allocation Model Review: the present "base plus" allocation model requires a comprehensive review/update. System goals, Regents' priorities, enrollment changes, performance/ outcomes and incentive funding are a few of the critical issues requiring study and analysis, as we move toward a revised allocation model.</li> </ul>

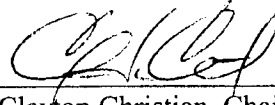
The signatures below denote that the signatories fully participated in and support the shared policy goals and accountability measures cited herein.

This document expires June 30, 2013.

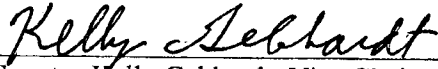
Dated this 17<sup>th</sup> day of August 2010.



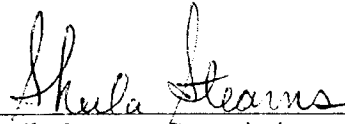
Representative Wanda Grinde, Chair  
Education and Local Government  
Committee



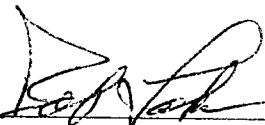
Clayton Christian, Chair  
Board of Regents



Senator Kelly Gebhardt, Vice Chair  
Education and Local Government  
Committee



Sheila Stearns, Commissioner  
Commissioner of Higher Education



Representative Bob Lake, Chair  
ELG Subcommittee on Shared Policy  
Goals



**Appendix J**  
**K-20 Policy Goals and Accountability Measures**







# Education and Local Government Interim Committee

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## 61st Montana Legislature

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JOHN FLEMING  
BOB LAKE  
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### COMMITTEE STAFF

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## SHARED POLICY GOALS AND ACCOUNTABILITY MEASURES FOR THE K-20 PUBLIC EDUCATION SYSTEM 2013 BIENNIUM

This document on shared policy goals and accountability measures represents a merging of the following efforts that have involved leaders from the legislature, the executive, the K-12 education system and the university system during the 2011 interim:

- Board of Regents strategic goals and objectives
- Board of Public Education strategic goals and objectives
- Superintendent of Public Instruction strategic goals and objectives
- Shared policy goals and accountability measures developed by the Education and Local Government Interim Committee (ELG) Subcommittee on Shared Policy Goals

The shared policy goals developed collaboratively between the ELG Subcommittee and the state education agencies reflect a shared commitment to:

1. Aligning high school outcomes with college readiness expectations to facilitate the transition from high school to college
2. Increasing college participation of Montana high school graduates
3. Expanding distance learning opportunities
4. Utilizing K-20 data to improve student access and achievement

This document is nonbinding. The ELG shall review, update, approve, and renew this understanding each biennium with the Montana Board of Regents, the Office of the Commissioner of Higher Education, the Board of Public Education, and the Superintendent of Public Instruction so that it may become the basis of state public policy in regard to the K-20 education system.

As a statement of public policy goals for public education in Montana, this document reflects the ELG's commitment to a basic system of free quality public elementary and secondary schools and to academic quality throughout the Montana University System such that funding a high quality public K-20 education system is a critical goal of the State of Montana. This document, in conjunction with the definition of a basic system of free quality public elementary and secondary

schools established in section 20-9-309, MCA, will provide the policy direction needed to maintain a quality public K-20 education system in Montana.

The authors of this document urge that it, along with 20-9-309, MCA, be used by the legislature in the 2011 legislative session to frame education budget initiatives and other policy recommendations for the 2013 biennium.

<b>Table 1</b> <b>K-20 Shared Policy Goals, Objectives, and Accountability Measures</b> <b>2013 Biennium</b>		
Shared Policy Goal	Objectives	Accountability Measure
1. Align high school outcomes with college readiness expectations to facilitate the transition from high school to college	1.0 Decrease remediation rates of freshman entering the Montana University System from Montana public high schools	Remediation rates of freshman entering the Montana University System from Montana public high schools steadily decrease. [Measure -- 5 year trend data]
2. Increase college participation of Montana high school graduates	1.0 Increase the percentage of Montana high school graduates who participate in accredited postsecondary education	Increase the percentage of Montana high school graduates enrolling in college. --All postsecondary --All Montana postsecondary --MUS [Measure -- 5 year trend data]
3. Expand distance learning opportunities	1.0 Create easy access to distance learning opportunities through the development of a virtual academy and through improvements to current virtual college capabilities	Increase the percentage of Montana high school students who participate in distance learning --Higher Ed baseline distance learning enrollment currently available. --High School baseline distance learning enrollment not currently available, but will be collected starting Fall 2010 [Measure -- 5 year trend data]
4. Utilize K-20 data to improve student access and achievement	1.0 Link K-12 and Higher Education data systems	By June 30, 2013, the electronic link between MUS data and OPI data will be established.

## K-20 SHARED POLICY GOALS

WHEREAS, Article VIII, section 12, of the Montana Constitution vests in the Legislature the responsibility to ensure strict accountability of all revenue received and spent by the state, counties, cities, and towns and all other local governmental entities, and Article X, section 1, requires the Legislature to fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system; and

WHEREAS, Article X, section 9, of the Montana Constitution vests in the Board of Regents of Higher Education the full power, responsibility, and authority to supervise, coordinate, manage, and control the Montana University System and to supervise and coordinate other public institutions assigned to it by law; and

WHEREAS, Article X, section 9, of the Montana Constitution states that the Board of Public Education shall exercise general supervision over the public school system; and

WHEREAS, section 20-3-106, MCA, grants supervision of certain aspects of the public schools and districts of the state to the Superintendent of Public Instruction; and

WHEREAS, Article X, section 8, of the Montana Constitution states that the elected board of trustees in each school district shall exercise supervision and control of schools in the district; and

WHEREAS, economic challenges facing the state require prioritizing a K-20 education system that serves economic development and job creation; and

WHEREAS, agencies of the education community have increasingly, and to positive effect, shared leadership with the Education and Local Government Interim Committee; and

WHEREAS, an understanding of shared policy goals and accountability measures for the entire K-20 public education system, shared by the Board of Regents, Commissioner of Higher Education, Superintendent of Public Instruction, Board of Public Education, and Education and Local Government Interim Committee, would represent an important advance in interagency cooperation and in the quality of education policymaking; and

WHEREAS, shared policy goals must be systematically tied to accountability measures in order to ensure timely and effective implementation of policy; and

WHEREAS, the ELG Subcommittee on Shared Policy Goals, comprised of four legislators and representatives from the Board of Regents, the Board of Public Education, the Office of Public Instruction, and the Office of the Commissioner of Higher Education, has identified statewide public education policy goals and accountability measures for the K-20 public education system, with the collaboration of the state education agencies;

This UNDERSTANDING crafted by the Education and Local Government Interim Committee and the Board of Regents, the Board of Public Education, the Office of Public Instruction, and the Office of the Commissioner of Higher Education, identifies the statewide public education policy goals and related accountability measures (see Table 1) that will be used as a policy goal setting and assessment tool for policymakers, the state education boards and agencies, and the general public in evaluating the achievement of the policy goals; and that will be used, in conjunction with 20-9-309, MCA, as a guide to drive decision packages and funding mechanisms for the state funding that is appropriated to the K-20 public education system by the Montana State Legislature.

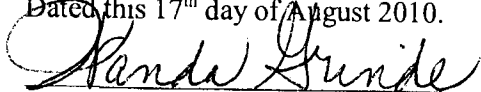
Furthermore:

1. The Office of the Commissioner of Higher Education and the Office of Public Instruction shall prepare a Shared Policy Goals and Accountability Measures Report presenting appropriate and current data for these goals and accountability measure in an easy-to-read format.
2. This report shall be presented to the House and Senate Education Committees and the Joint Appropriations Subcommittee on Education by the 10<sup>th</sup> legislative day of the 62nd Legislature (2011 legislative session).
3. This report shall be posted to the Board of Regents, Office of the Commissioner of Higher Education, Board of Public Education, and Office of Public Instruction, and the Education and Local Government Interim Committee websites by January 1 of each odd-numbered year.

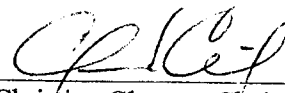
The signatures below denote that the signatories fully participated in and support the shared policy goals and accountability measures cited herein.

This document expires June 30, 2013.

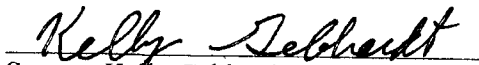
Dated this 17<sup>th</sup> day of August 2010.



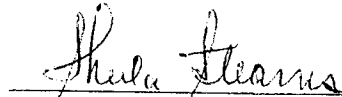
Representative Wanda Grinde, Chair  
Education and Local Government  
Committee



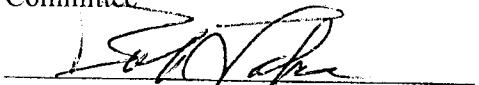
Christian Clayton, Chair  
Board of Regents



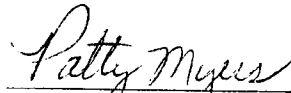
Senator Kelly Gebhardt, Vice Chair  
Education and Local Government  
Committee




Sheila Stearns, Commissioner  
Commissioner of Higher Education



Representative Bob Lake, Chair  
ELG Shared Policy Goals Subcommittee



Patty Myers, Chair  
Board of Public Education



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Denise Juneau, Superintendent  
Office of Public Instruction



**Appendix K**  
**K-12 Policy Goals and Accountability Measures**







**Education and Local Government Interim Committee**  
**61st Montana Legislature**

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

**SENATE MEMBERS**

KELLY GEBHARDT--Vice Chair  
GARY BRANAE  
KIM GILLAN  
BOB HAWKS  
DANIEL MCGEE  
JIM PETERSON

**HOUSE MEMBERS**

WANDA GRINDE--Chair  
ELSIE ARNTZEN  
RUSSELL BEAN  
JOHN FLEMING  
BOB LAKE  
EDITH MCCLAFFERTY

**COMMITTEE STAFF**

LEANNE KURTZ, Research Analyst  
JEREMY GERSOVITZ, Staff Attorney  
CLAUDIA (CJ) JOHNSON, Secretary

**SHARED POLICY GOALS AND ACCOUNTABILITY MEASURES  
FOR THE K-12 PUBLIC EDUCATION SYSTEM  
2013 BIENNIUM**

This document on shared policy goals and accountability measures represents a merging of the following efforts that have involved leaders from the legislature, the executive and the K-12 public education system during the 2011 interim:

- Board of Public Education strategic goals and objectives
- Superintendent of Public Instruction strategic goals and objectives
- Shared policy goals and accountability measures development by the Education and Local Government Interim Committee (ELG) Subcommittee on Shared Policy Goals

The documentation for these efforts provides important background, history and context for these shared policy goals and accountability measures, in particular the shared commitments to prepare students for success in the 21<sup>st</sup> century, to improve teaching and student learning, to improve student achievement in struggling schools, and to increase public awareness and engagement in the K-12 educational system.

This document is nonbinding. The ELG shall review, update, approve, and renew this understanding each biennium with the Board of Public Education and Superintendent of Public Instruction so that it may become the basis of state public policy in regard to the K-12 education system.

As a statement of public policy goals for public education in Montana, this document reflects the ELG's commitment to a basic system of free quality public elementary and secondary schools such that funding high quality education is a critical goal of the State of Montana. This document, in conjunction with the definition of a basic system of free quality public elementary and secondary schools established in section 20-9-309, MCA, will provide the policy direction needed to maintain a free quality elementary and secondary education system in Montana.

The authors of this document urge that it, along with 20-9-309, MCA, be used by the legislature in the 2011 legislative session to frame education budget initiatives and other policy recommendations for the 2013 biennium.

MONTANA LEGISLATIVE SERVICES DIVISION STAFF: SUSAN BYORTH FOX, EXECUTIVE DIRECTOR • DAVID D. BOHYER, DIRECTOR, OFFICE OF RESEARCH AND POLICY ANALYSIS • GREGORY J. PETESCH, DIRECTOR, LEGAL SERVICES OFFICE • HENRY TRENK, DIRECTOR, OFFICE OF LEGISLATIVE INFORMATION TECHNOLOGY • TODD EVERTS, DIRECTOR, LEGISLATIVE ENVIRONMENTAL POLICY OFFICE

**K-12 Shared Policy Goals, Objectives, and Accountability Measures**

**2013 Biennium**

<b>Shared Policy Goal</b>	<b>Objectives</b>	<b>Accountability Measures</b>
1. Prepare students with the knowledge and skills necessary for success in the 21st century global society.	1.1. Increase Montana's high school graduation rate.	By June 30, 2013, increase by 2 percent the number of students who graduate in 4 years with a regular high school diploma.
	1.2. Review the ARM rules that govern accreditation, certification, and professional educator preparation programs on a regular cycle.	By June 30, 2013, increase by 2 percent the number of schools meeting regular accreditation standards using 2011/2012 school year as a baseline.
2. Improve teaching and student learning by promoting data-driven policy decisions and increasing access to educational information.	2.1. Develop a statewide longitudinal data system to collect and report reliable and timely data on Montana K-12 students.	By June 30, 2013, the K-12 education data warehouse will be established as the single source of information for reporting and analysis of K-12 student level data collected by the OPI as measured by the number of reports produced from the data warehouse.
	2.2. Improve access to K-12 education data by educators, policymakers, and the public.	By June 30, 2013, educators, policymakers, and the public will have access to data in the data warehouse through standardized reports and ad hoc query tools in accordance with the access rights established for the individual accessing the data as measured by the number of categories of users.
3. Improve student achievement in struggling schools.	3.1. Provide learning supports and promote greater community engagement to increase greater student achievement in schools identified as struggling.	The number of schools served by the Statewide System of Support that show an increase in student achievement as measured by the statewide student assessment (criterion-referenced test) using the 2009-10 school year as a baseline.
4. Increase public awareness of and engagement in the K-12 educational system recognizing the roles and responsibilities of the state and local educational agencies and the legislature.	4.1. Promote coordination and collaboration among the legislature and K-12 education agencies recognizing the constitutional roles of the Board of Public Education, Montana Legislature and local school districts.	Progress shall be measured by continuous improvement in attaining the identified accountability measures in the K-12 education shared policy goal agreement.

## **K-12 SHARED POLICY GOALS**

WHEREAS, Article VIII, section 12, of the Montana Constitution vests in the Legislature the responsibility to ensure strict accountability of all revenue received and spent by the state, counties, cities, and towns and all other local governmental entities, and Article X, section 1, requires the Legislature to fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system; and

WHEREAS, Article X, section 9, of the Montana Constitution vests in the Board of Public Education the general supervision of the public school system; and

WHEREAS, section 20-3-106, MCA, grants supervision over certain aspects of the public schools and districts of the state to the Superintendent of Public Instruction; and

WHEREAS, Article X, section 8, of the Montana Constitution states that the elected board of trustees in each school district shall exercise supervision and control of schools in the district; and

WHEREAS, agencies of the education community have increasingly, and to positive effect, shared leadership between themselves and with the Education and Local Government Interim Committee; and

WHEREAS, an understanding of shared policy goals and accountability measures for the K-12 public education system, shared by the Superintendent of Public Instruction, the Board of Public Education, and Education and Local Government Interim Committee, represents an important advance in interagency cooperation and the quality of education policymaking; and

WHEREAS, shared policy goals must be systematically tied to accountability measures in order to ensure timely and effective implementation of policies; and

WHEREAS, the Education and Local Government Interim Committee Subcommittee on Shared Policy Goals and Accountability Measures, comprised of four legislators and education agency partners, with representatives from the Board of Public Education and the Office of Public Instruction, has identified statewide public elementary and secondary education policy goals and accountability measures for the K-12 public education system, in collaboration with the education agency partners;

This UNDERSTANDING crafted by the Education and Local Government Interim Committee, the Office of Public Instruction, and the Board of Public Education, identifies the statewide public elementary and secondary education policy goals and related accountability measures (see pages 1-2 above) that will be used as a policy goal setting and assessment tool for policymakers, the K-12 education system, and the public in evaluating the achievement of the policy goals; and that will be used, in conjunction with 20-9-309, MCA, as a guide to drive

decision packages and funding mechanisms for the state funding that is appropriated to the K-12 education system by the Montana State Legislature.

Furthermore:

1. The K-12 education system shall prepare a Shared Policy Goals and Accountability Measures Report presenting appropriate and current data for these goals and accountability measure in an easy-to-read format.
2. This report shall be presented to the House and Senate Education Committees and the Joint Appropriations Subcommittee on Education by the 10<sup>th</sup> legislative day of the 62<sup>st</sup> Legislature (2011 legislative session).
3. This report shall be posted to the Board of Public Education, Office of Public Instruction, and Education and Local Government Interim Committee websites by January 1 each odd numbered year.

The signatures below denote that the signatories fully participated in and support the shared policy goals and accountability measures cited herein.

This document expires June 30, 2013.

Dated this 17th day of August 2010.

X *Wanda Grinde*

Representative Wanda Grinde, Chair  
Education and Local Government Committee

X *Patty Myers*

Patty Myers, Chair  
Board of Public Education

X *Kelly Gebhardt*

Senator Kelly Gebhardt, Vice Chair  
Education and Local Government Committee

X *Denise Juneau*

Denise Juneau, Superintendent  
Office of Public Education

X *Bob Lake*

Representative Bob Lake, Chair  
ELG Subcommittee on Shared Policy Goals

**Appendix L**  
**HB 645 Quality Schools Grant Program**



**HB 645 QUALITY SCHOOLS GRANT PROGRAM  
PRESENTATION TO EDUCATION & LOCAL GOV'T COMMITTEE  
OCTOBER 2, 2009**

3 programs in Quality Schools Grant Program – 2 are HB 645 Programs

**(1) DEFERRED MAINTENANCE AND ENERGY EFFICIENCY PAYMENTS**

- 441 school districts receiving just under \$20 million in payments, distributed according to quality educator formula
- Schools can spend the funds on deferred maintenance on and energy efficiency improvements to school facilities
- Department distributes 90% to schools up front after contract execution; 10% will be distributed at project close-out.
- As of today, **\$4,472,955.15** distributed to 74 school districts
- All work must be completed by September 30, 2010

**(2) QUICK START**

**\*\* Total appropriation of \$14,950,000 awarded 8 weeks after bill signed \*\***

**ENERGY AUDITS**

**143 school districts received energy audit awards**

- \$2,728,523 total awarded to evaluate the potential energy savings in a school facility
- As of today, **\$1,495,431.43** in invoices paid with another \$450,000 being processed now.
- All work must be completed by September 30, 2009; all audits are were completed by that date
- All work done by Montana firms or the Montana office of a firm. Department contracted directly with these pre-qualified auditors on behalf of the schools awarded grants.

**ENERGY EFFICIENCY IMPROVEMENTS**

**99 school districts received energy efficiency improvement awards**

- \$12,220,517 awarded for energy efficiency improvements expected to achieve measurable energy efficiency and cost savings to a school district
- Projects include upgrades to: boilers, lighting, windows, geothermal heat pump systems, and HVAC systems
- As of today, **\$4,845,949.03** in invoices paid, with another \$4.9 million currently being processed.
- All work must be completed by September 30, 2009.

**\*\* 440 cumulative jobs saved or created by Quick Start Program as of September 24, 2009**

**(3) QUALITY SCHOOLS FACILITY GRANT PROGRAM**

- HB 152 – not ARRA money but Quick Start appropriation provides that any funds remaining at end of program will “pour over” to this program
- Competitive grant program will fund projects that solve urgent and serious public health or safety problems; improvements necessary to bring school facilities up to code; enhance accreditation standards; technology projects; and projects that enhance educational opportunities.
- Currently writing rules – will publish in October, hold hearings in November, finalize in December, accept first round of applications in January, second round in May.





Appendix M  
LC 245



**Unofficial Draft Copy**

As of: October 25, 2010 (9:55am)

LC0245

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the Education and Local Government Interim  
Committee

A Bill for an Act entitled: "An Act requiring state agencies and the Montana university system to biennially report to the preservation review board on the status and maintenance needs of agency heritage properties; requiring the state historic preservation officer to report the information to the legislature; and amending sections 22-3-422, 22-3-423, and 22-3-424, MCA."

WHEREAS, hundreds of heritage properties have been entrusted to the state of Montana and the state's agencies are responsible for maintaining those properties on behalf of the state's citizens; and

WHEREAS, these properties are in danger of disappearing or falling into a state of disrepair from which they may never recover; and

WHEREAS, preserving and maintaining heritage properties is important not only for fostering a sense of identity and community, but also for the economic benefits to be realized through reusing buildings, attracting tourism, and revitalizing downtown areas; and

WHEREAS, regular assessment by state agencies on the condition of the heritage properties under the agencies' care

will help ensure the state's ongoing stewardship of these valuable resources.

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 22-3-422, MCA, is amended to read:

**"22-3-422. Duties of preservation review board.** The preservation review board shall:

- (1) recommend nominations to the register;
- (2) approve or disapprove all nominations to the register;
- (3) approve or disapprove additions to statewide inventories of heritage properties;
- (4) review the annual work program that recommends preservation goals and grant allocations for the next succeeding fiscal year; ~~and~~
- (5) act in an advisory capacity to the historic preservation office and to state agencies; and
- (6) convene a meeting on the first Tuesday in February of every even-numbered year to receive reports from state agencies and the Montana university system on the status and stewardship of the agencies' and system's heritage properties as required in 22-3-424 and to make recommendations regarding management of the properties. The board may require that copies of the reports be submitted in advance of the meeting."

{Internal References to 22-3-422: None.}

**Section 2.** Section 22-3-423, MCA, is amended to read:

**"22-3-423. Duties of historic preservation officer.** Subject to the supervision of the director of the historical society, the historic preservation officer has the following duties and responsibilities:

(1) follow necessary procedures to qualify the state for money that is now or will be made available under any act of congress of the United States or otherwise for purposes of historic preservation;

(2) conduct an ongoing statewide survey to identify and document heritage properties and paleontological remains;

(3) maintain a state inventory file of heritage properties and paleontological remains and maintain a repository for all inventory work done in the state;

(4) evaluate and formally nominate potential register properties according to the criteria established by the register;

(5) prepare and annually review the state preservation plan, register nominations, and historic preservation grant activity;

(6) maintain, publish, and disseminate information relating to heritage properties and paleontological remains in the state;

(7) cooperate with and assist local, state, and federal government agencies in comprehensive planning that allows for the preservation of heritage properties and paleontological remains;

(8) enter into cooperative agreements with the federal government, local governments, and other governmental entities or private landowners or the owners of objects to ensure preservation and protection of registered properties;

(9) adopt rules outlining procedures by which a state agency that has no approved rules under 22-3-424(1) shall systematically consider heritage properties or paleontological remains on lands owned by the state and avoid, whenever feasible, state actions or state assisted or licensed actions that substantially alter the properties;

(10) respond to requests for consultation under section 106 of the National Historic Preservation Act, as provided for in 22-3-429;

(11) develop procedures and guidelines for the evaluation of heritage property or paleontological remains as provided in 22-3-428;

(12) protect from disclosure to the public any information relating to the location or character of heritage properties when disclosure would create a substantial risk of harm, theft, or destruction to the resources or to the area or place where the resources are located; ~~and~~

(13) compile the information presented at the preservation review board meeting required in 22-3-422(6) and report the information, along with any recommendations by the preservation officer or the review board, to an appropriate legislative interim committee established under Title 5, chapter 5, part 2. The report required in this subsection must also be incorporated into the biennial report required to be submitted to the governor and the legislature under 22-3-107(8).

~~(13)~~ (14) any other necessary or appropriate activity permitted by law to carry out and enforce the provisions of this

part."

{Internal References to 22-3-423:  
a22-3-424 }

**Section 3.** Section 22-3-424, MCA, is amended to read:

**"22-3-424. Duties of state agencies.** State agencies, including the Montana university system, shall:

(1) in consultation with the historical society adopt rules for the identification and preservation of heritage properties and paleontological remains on lands owned by the state to avoid, whenever feasible, state actions or state assisted or licensed actions that substantially alter heritage properties or paleontological remains on lands owned by the state or, in the absence of such rules, act in compliance with rules adopted under 22-3-423;

(2) identify and develop, in consultation with the historic preservation officer, methods and procedures to ensure that the identification and protection of heritage properties and paleontological remains on lands owned by the state are given appropriate consideration in state agency decisionmaking;

(3) deposit in the historic preservation office all inventory reports, including maps, photographs, and site forms, of heritage properties and paleontological remains;

(4) report at each meeting of the preservation review board convened pursuant to 22-3-422(6) the following information:

(a) a list of the heritage properties managed by the agencies as those properties have been identified pursuant to

**Unofficial Draft Copy**

As of: October 25, 2010 (9:55am)

LC0245

this section;

(b) the status and condition of each heritage property;

(c) the stewardship efforts in which the agencies have engaged to maintain each heritage property and the cost of those activities;

(d) a prioritized list of the maintenance needs for the properties; and

(e) a record of the agencies' compliance with subsections (1) and (2)."

{*Internal References to 22-3-424:*  
a22-3-423 }

- END -

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