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EXHIBIT NO. 2
DATE Jan. 9, 2013

Education and Local Government Interim Committee

62nd Montana Legislature

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DANIEL WHYTE, Staff Attorney
CJ JOHNSON, Secretary

TO: Members of the Senate Education and Cultural Resources Committee and the House Education Committee

FROM: Sen. Elsie Arntzen

DATE: January 8. 2012

RE: Education and Local Government Interim Committee work

I am pleased to provide you with a summary of the work of the 2011-2012 Education and Local Government Interim Committee (ELG) as it related to K-12 and postsecondary education. I hope you find this summary useful, both to provide brief background information on some of the issues you will be considering this session and to direct you to where you might find additional information on these very important matters.

This summary is excerpted from ELG's final report, which is in the final stages of completion and will be available online in the next few weeks. The final report will include hyperlinks to documents, as well as appendices.

A wealth of detailed information about K-12 education in particular can be found on a special website developed by the Legislative Services and Fiscal Divisions during the interim. The website contains recent reports, links to K-12 funding litigation, reports provided to ELG on the history and evolution of K-12 funding, and relevant reports dating back several years. It is an excellent source of information in one location and would be especially valuable for members who may be new to these issues. The website may be found here:

http://leg.mt.gov/css/fiscal/reports/Education-Publications.asp

If you would like any copies of documents that ELG received during the interim, please contact Leanne Kurtz, ELG's lead staff (444-3593), or CJ Johnson, ELG's secretary (444-9541).

Summary of Education-related work conducted by the
Education and Local Government Committee, 2011-2012 Interim
prepared for the
House Education Committee and the Senate Education and Cultural Resources Committee
63rd Legislature

Final Committee Recommendations

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

Committee Activities

1. Administrative Rule Review and Review of Accreditation Standards (20-7-101, MCA)

ELG legal staff provided reports on administrative rules being proposed by agencies to which the committee is statutorily assigned: the Office of Public Instruction, the Board of Public Education[1], and the State Board of Education. Much of ELG's activity related to rule review centered around the committee's statutorily-designated role in section 20-7-101(2). This section provides:

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

[1] 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. 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.

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

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

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

In the fall of 2011, the Board of Public Education proposed by rule content standards for English and Mathematics that were to be consistent with the Common Core State Standards. As required in section 20-7-102, the committee requested a fiscal analysis, which was later updated, of the proposed Common Core accreditation standards. During the summer of 2012, the Board proposed changes to accreditation standards located in Title 10, Chapter 55 of the Montana Administrative Rules. This proposal also prompted a request for a fiscal analysis. The conclusions of the fiscal analyses and the discussion they generated are discussed in item #11 below.

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

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

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

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

Advisory Councils

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

1. Fire Services Training Advisory Council (2-15-1519, MCA); Board of Regents
2. Student Loan Advisory Council (2-15-1520, MCA); Board of Regents
3. Certification Standards and Practices Advisory Council (2-15-1522, MCA); Board of Public Education

4. Governor's Postsecondary Scholarship Advisory Council (2-15-1524, MCA); Office of the Commissioner of Higher Education

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

- During the Council's 33-year existence, its focus has been on facilitating the processing of loans among students, the Guaranteed Student Loan Program, and lenders, as well as dealing with any operational issues that arose in loan processing.
- As many as 100 lenders participated in the program and lenders had significant interest in serving on the Council.
- The Council has not engaged in advising on student loan policies or rules.
- In 2007, Congress changed the compensation levels for guaranteed agencies as well as for lenders which caused many lenders to leave the program.
- In 2010, the Federal Direct Loan Program took over all loan originations and there are now no loans originating through the Guaranteed Student Loan Program.
- Only two lenders now participate in the program, due primarily to the changes implemented at the federal level.
- These changes and the lack of participation from lenders have rendered the Council obsolete.
- The Board of Regents has established the Affordability Task Force to examine some of the most important issues related to student loans, including affordability of postsecondary education, loan default prevention, and financial literacy.

ELG requested LC 184 to eliminate the Council. The committee recommended that the remaining three advisory councils remain in statute and continue to operate.

Required Reports

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

1. Carl D. Perkins Career and Technical Education Improvement Act, 2006 -- Legislative Report (20-7-330, MCA); Board of Regents
2. Biennial Report to the Governor and the Legislature (22-3-107, MCA); Montana Historical Society
3. At-Risk Students Report (20-9-328, MCA); Office of Public Instruction
4. American Indian Achievement Gap Report (20-9-330, MCA); Office of Public Instruction
5. Education Commission of the States (20-2-501, MCA); Education Commission of the States
6. Biennial Report of the Superintendent of Public Instruction "if considered necessary" (20-3-105, MCA); Office of Public Instruction
7. Quality Schools Facilities Grant Program (90-6-810, MCA); Department of

Commerce

8. Western Regional Higher Education Compact (20-25-801, MCA); Western Interstate Commission for Higher Education
9. State Agency Heritage Properties (Ch. 187, L. 2011); State Historic Preservation Office

ELG staff summarized the reporting requirements and provided the committee with reference information to enable members to read the most recent reports. Upon learning that the At-Risk Students report and the American Indian Achievement Gap report were intended as one-time-only reports that the Office of Public Instruction completed in September 2010 and that the Biennial Report of the Superintendent of Public Instruction is discretionary, ELG requested a bill, LC 183, to remove those references from the Montana Code Annotated. The committee recommended retention of the remaining reports.

4. SJR 28 Study of Outcome-Based K-12 Education

SJR 28 stated that the Shared Policy Goals and Accountability Measures, completed during the 2009-2010 Interim by ELG and representatives of K-12 and higher education agencies and organizations, require greater efficiency, improved outcomes, lower dropout rates, and increased graduation rates. The resolution also states that Montana taxpayers deserve the best possible return on their investment in education.

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

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

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

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

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

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

5. SJR 26 Monitoring Agency Activities as Recommended by Joint Appropriations Subcommittee

As provided in SJR 26, ELG's involvement focused on monitoring of K-12 education and the progress on "(1) implementing state actions to create a culture of effective data use and to improve student performance; and (2) goals and objectives on K-12, higher education, and P-20, including the role and mission of the Education and Local Government Interim Committee, which absorbed the Joint Committee on Postsecondary Education Policy and Budget that was repealed in 1999."

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

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

6. K-12 Finance Training

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

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

A website maintained by the Legislative Services and Fiscal Divisions includes links to all of the presentations, as well as to numerous previous Legislative Branch and Executive Branch reports related to K-12 finance and to the significant court decisions.

7. Shared Policy Goals and Accountability Measures

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

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

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

8. 2-year Education

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

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

The committee decided not to pursue any legislation.

9. Montana University System (MUS) Monitoring

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

Two ELG members were also designated to attend meetings of the Board of Regents as their

schedules allowed and report their observations to the committee.

10. Office of Public Instruction Monitoring (including GEMS and SB 329 implementation)
ELG's monitoring of OPI's activities included regular progress reports on and demonstrations of OPI's longitudinal data system (Growth and Enhancement of Montana's Students or GEMS) and a response from OPI on the Data Quality Campaign's recommended state actions to support effective data use; a report on the Montana Comprehensive Assessment System (MontCAS) and the future of student assessments; the Superintendent of Public Instruction's decision to delay the scheduled increase of the Annual Measurable Objectives required under the No Child Left Behind Act and the U.S. Department of Education's response; and OPI's participation in the Chapter 55 Accreditation Standards Task Force and the Common Core State Standards.

11. Common Core State Standards and Chapter 55 Accreditation Standards
The Common Core State Standards Initiative website (http://www.corestandards.org/about-the-standards) describes the genesis of the initiative:

> The Common Core State Standards Initiative is a state-led effort coordinated by the National Governors Association Center for Best Practices (NGA Center) and the Council of Chief State School Officers (CCSSO). The standards were developed in collaboration with teachers, school administrators, and experts, to provide a clear and consistent framework to prepare our children for college and the workforce.
>
> The NGA Center and CCSSO received initial feedback on the draft standards from national organizations representing, but not limited to, teachers, postsecondary educators (including community colleges), civil rights groups, English language learners, and students with disabilities. Following the initial round of feedback, the draft standards were opened for public comment, receiving nearly 10,000 responses.

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

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

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

LFD's conclusion stated:

> The Legislative Fiscal Division finds that the estimated costs of implementing the adoption of the Montana Common Core English Language Arts and Mathematics Content Standards and Performance Descriptors are not substantial and as such do not require the Board of

> Public Education to delay implementation until July 1, 2013 to allow the legislature to deliberate on funding the additional costs. Again, it should be noted that July 1, 2013 is the implementation date adopted for the standards by BPE allowing school districts two years to pay for the costs of implementation for such cost components as textbooks.

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

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

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

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

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

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

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

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

> LFD estimates the total statewide incremental fiscal impact for the proposed amendments to be $1.3 million. Ongoing cost will total $1.0 million per year. Three quarters of this impact is due to a requirement that districts implement a new mentoring and induction

program. While the impact on individual school districts will vary, by the definition developed and adopted by the LFD for previous analyses this impact is not considered to be substantial.

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

12. Board of Public Education Monitoring

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

13. Board of Regents Monitoring

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

14. Compact on Educational Opportunities for Military Children

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

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

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

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

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

16. Teacher Training, Recruitment, Retention

In January 2012, ELG hosted a discussion with the Deans of the Colleges of Education at Montana

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

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

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