EXHIBIT 3
DATE 1-25-05
HB 311

MTSBA

"...fostering excellence in public education through school board leadership."

TO: House Select Committee on Education Funding

FROM: Lance L. Melton, Executive Director
Montana School Boards Association

RE: House Bill 311

DATE: Tuesday, January 25, 2005

The Montana School Boards Association appreciates Representative Glaser's interests in providing for a definition of the basic system of free quality public elementary and secondary schools in Montana. House Bill 311 approaches the definition by reference to the intended outcome of student achievement, which is an important aspect of Montana's obligation to its school-aged children. If paired with additional language to identify the inputs that are intended to result in the achievement of the goals specified in HB 311, this bill could very well address the Court's ruling in Columbia Falls Elementary v. State.

The notion of providing some assurance of outcomes is embedded in the goal under Article X, Section 1 of the Montana Constitution:

> *"It is the goal of the people to establish a system of education which will develop the full educational potential of each person."*

Outcomes are also addressed in a key quote from the discussion among the delegates who crafted Article X:

> *"The word quality is an instruction to the legislature to provide not simply a minimum educational system, but one which meets contemporary needs and produced capable, well-informed citizens."*

As much as intended outcomes have been addressed in our Constitution and its history, there has never been a guarantee of outcomes as such. This is probably wise, as society has yet to provide a comprehensive, consistent solution as to how we address impediments to quality education, such as poverty and other indicators that tend to place a student at risk of failing to meet standards.

Our Montana Supreme Court has specifically drawn a distinction between the goals and the guarantees under our constitution, and has held that the guarantees must be provided and proven via tangible inputs, such as the money necessary to ensure compliance with the equality of educational opportunity provision, or the Legislature's obligation to base its definition of quality upon the foundation of the accreditation standards, which have been held to be minimum standards upon which the basic system of free quality public elementary and secondary schools

is built. See, e.g. Helena Elementary v. State (1989). The Montana Supreme Court has rejected the notion that the Legislature can prove compliance with constitutional guarantees exclusively through outputs:

> *The State attempted to present an argument at trial that equality of educational opportunity is more appropriately measured by output, that is, by analysis of the success of students from the different school districts, rather than by input of dollars. The District Court concluded that the State had failed to submit convincing evidence on the output theory of measurement. We agree with that conclusion.*

Amendments:

MTSBA has prepared suggested amendments to House Bill 311 that would add an input component to the bill as a means if tangibly identifying the Legislature's plan for achieving the sound outcomes already encompassed in House Bill 311. Those inputs are grounded first and foremost on the recognition of the Board of Public Education's accreditation standards as minimum standards upon which the basic system of free quality schools is built. The amendments also include reference to:

- Funding to deliberately ensure that each school district has the resources necessary to comply with the standards and laws governing the operation of our schools. This portion of the definition is necessary to ensure that mandates imposed on local school districts by the federal and state government are sufficiently funded. It is also necessary to ensure a greater level of scrutiny by the Montana Legislature as to the mandates that are imposed on our local school districts, with an eye toward identifying and removing those mandates that have no educational relevance.
- Inputs to address the unique needs of all children. There is a wealth of research that shows that children afflicted by poverty and other risk factors need additional resources to give them a chance to succeed in today's world. The definition of the basic system of free quality schools must include resources necessary to provide a better chance to succeed to these children.
- Recruitment and retention of quality educators. Research universally acknowledges the key role that a quality educator plays in developing our children, placing the quality teacher second only to family circumstance in the list of "inputs" that positively impact the development of our children.
- Our obligations for preserving and educating regarding the cultural integrity of American Indians as provided in our Constitution.
- Supervision and control of publicly funded K-12 education by elected trustees.
- Equitable distribution of taxes necessary to fund public education for both those paying for and those receiving the benefit of the basic system of free quality schools under our Constitution.

MTSBA supports the efforts of Representative Glaser to define the basic system of free quality public elementary and secondary schools in Montana. With the amendments suggested in our attachment, connecting inputs designed to produce intended outputs, we stand in support of House Bill 311.

Thanks

59th Legislature

HOUSE BILL NO. 311

INTRODUCED BY B. GLASER

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS" AS REQUIRED BY ARTICLE X, SECTION 1(3), OF THE MONTANA CONSTITUTION; AMENDING SECTION 20-9-307, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-9-307, MCA, is amended to read:

"20-9-307. BASE funding program -- district general fund budget -- funding sources. (1) ~~A~~ Pursuant to Article X, section 1(3), of the Montana constitution, the legislature is required to establish and maintain a basic system of free quality public elementary and secondary schools ~~and high schools must be established and maintained~~ throughout the state of Montana to provide equality of educational opportunity to all school-age children.

(2) As used in this section, "basic system of free quality public elementary and secondary schools" means **A SYSTEM DESIGNED AS PROVIDED IN SUBSECTION (3) AND FUNDED AS PROVIDED IN SUBSECTION (4) WITH THE GOAL OF** enabling students to:

(a) find joy in learning;

(b) communicate their ideas, knowledge, thoughts, and feelings;

(c) learn who they are becoming;

(d) develop personal responsibility;

(e) reason critically and creatively;

(f) affect a world in change;

(g) assume social responsibility; ~~and~~

(h) further their creative ability.;

(I) BECOME CAPABLE AND WELL-INFORMED CITIZENS; AND

(J) LEARN IN A MANNER CONSISTENT WITH CONTEMPORARY NEEDS OF SOCIETY.

(3) THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND

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SECONDARY SCHOOLS SHALL BE BUILT UPON THE FOUNDATION ESTABLISHED BY THE ACCREDITATION STANDARDS OF THE BOARD OF PUBLIC EDUCATION, WHICH ARE MINIMUM STANDARDS UPON WHICH THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS SHALL BE BUILT. THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS SHALL PROVIDE THE RESOURCES NECESSARY TO ENSURE:

(A) THAT THE EDUCATION BEING OFFERED IN EVERY DISTRICT MEETS ALL STANDARDS AND LAWS THAT GOVERN THE OPERATION OF PUBLIC SCHOOLS;

(B) THAT THE EDUCATIONAL EXPERIENCE OFFERED MEETS THE UNIQUE NEEDS OF ALL CHILDREN, INCLUDING AT-RISK CHILDREN, THOSE WITH SPECIAL NEEDS, ATTENTION TO TEACHING STUDENTS WITH LIMITED ENGLISH PROFICIENCY AND GIFTED AND TALENTED STUDENTS;

(C) THAT SCHOOL DISTRICTS ARE ABLE TO ATTRACT AND RETAIN QUALITY EDUCATORS;

(D) THAT THERE ARE SUFFICIENT RESOURCES TO MEANINGFULLY IMPLEMENT INDIAN EDUCATION FOR ALL;

(E) THAT LOCAL CONTROL OF SCHOOL BOARDS IS PRESERVED; AND

(F) THAT TAXES FOR THE SUPPORT OF PUBLIC EDUCATION ARE APPROPRIATELY AND EQUITABLY DISTRIBUTED.

~~(2)(3)~~ **(4)** The state shall assess the cost of the basic system of free quality public elementary and secondary schools and shall, in an equitable manner and based on educationally relevant factors established by the legislature, fund and distribute to the school districts the state's share of the cost of the basic ~~school~~ system of free quality public elementary and secondary schools through BASE aid to support the BASE funding program in the manner established in this title.

~~(3)(4)~~ **(5)** The budgetary ~~vehicle~~ **VEHICLES** for achieving the financing system established in subsection ~~(2)~~ ~~(3)~~ **(4)** ~~is the general fund budget~~ **ARE ALL BUDGETED AND NONBUDGETED FUNDS** of the school district. The ~~purpose~~ **PURPOSES** of ~~the district general fund budget~~ **SUCH FUNDS** ~~is~~ **ARE** to finance ~~those instructional, administrative, facility maintenance, and other operational~~ the costs of the basic system of free quality public elementary and secondary schools, including annual inflation-related adjustments provided for in 20-9-326, **AND THOSE**

INSTRUCTIONAL, ADMINISTRATIVE, FACILITY CONSTRUCTION AND MAINTENANCE AND TRANSPORTATION COSTS of a district ~~not financed by other funds established for special purposes in this title~~.

~~(4)(5)~~ **(6)** The BASE funding program for the districts in the state is financed by a combination of the following sources:

(a) county equalization money, as provided in 20-9-331 and 20-9-333;

(b) state equalization aid, as provided in 20-9-343, including guaranteed tax base aid for eligible districts as provided in 20-9-366 through 20-9-369;

(c) appropriations for special education;

(d) a district levy, as provided in 20-9-303, for support of a school not approved as an isolated school under the provisions of 20-9-302; and

(e) district levies or other revenue, as provided by 20-9-308 and 20-9-353."

NEW SECTION. **Section 2. Effective date -- applicability.** [This act] is effective July 1, 2005, and applies to the school fiscal years beginning on or after July 1, 2006.

- END -