



TO: Senate Education Committee

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

RE: SB 10

DATE: Friday, January 21, 2005

SENATE EDUCATION
EXHIBIT NO. 5
DATE 1-21-05
BILL NO. SB-10

The Montana School Boards Association opposes SB 10, introduced by Senator Laible. We appreciate the intent of the bill in seeking to establish a better connection between the standards implemented by the Board of Public Education and the funding provided by the Montana Legislature, but we believe that SB 10 goes about this solution in the wrong way.

Specifically, SB 10 requires that the Board of Public Education subject its constitutional role in generally supervising public education to an affordability analysis that would be undertaken by the Legislature every two years. This is problematic for a couple of reasons.

First, subjecting the Board's accreditation standards to legislative oversight appears to directly contradict a binding district court opinion involving the Board and the Legislature that was issued in 1992. In that opinion, Judge Sherlock held as follows:

"The Board of Public Education, pursuant to Article X, Section 9(3), of the Montana Constitution, is vested with constitutional rule-making authority. This provision is self-executing and independent of any power that is delegated to the Board by the legislature." Montana Board of Public Education v. Montana Administrative Code Committee, Order and Decision, Cause No. BDV-91-1072 (1992)

Second, subjecting the Board's authority in drafting accreditation standards to legislative oversight provides a very real threat that those standards will be denigrated over time as the funding pressures faced by the Montana Legislature control and impede good education policy. The Montana Supreme Court has specifically articulated what the standards represent:

"[Finding of Fact 270.] In sum, the Montana School Accreditation Standards are minimum standards upon which quality education must be built.
"[Conclusion of Law 18.] Thus, the Montana School Accreditation Standards do not fully define either the constitutional rights of students or the constitutional responsibilities of the State of Montana for funding its public elementary and secondary schools."
Helena Elementary v. State, 236 Mont. 44 (1989)

SB 10 appears to contradict binding court authority and risks the denigration of standards that form the basis upon which quality is built in Montana. As such, MTSBA respectfully opposes it.