



*The Big Sky Country*

SENATE FINANCE AND CLAIMS  
LEGISLATIVE NO. 3  
DATE 4-8-05  
BILL NO. SB 525

## MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE CAROL C. JUNEAU  
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April 8, 2005

Senator Cooney, Chair, and members of the Senate Finance Committee  
State Capitol  
Helena, MT

RE: SB 525 -- Quality Schools Interim Committee

Dear Chairman Cooney and members of the Senate Finance Committee:

The bill outlining the definition of a quality education was signed into law yesterday and included in this definition is Indian Education for All Montanans. In addition, there is language in the educationally relevant factors that includes the needs of American Indian students in our school systems.

This definition is one step toward meeting the constitutional promise made in 1972 in Article X, 1 (2) as well as the recent Supreme Court Order. Indian Education for All needs to be an integral part of the process of the funding strategies that will be developed by this Interim Committee outlined in SB 525.

The assessment of educational needs will need to include two components:

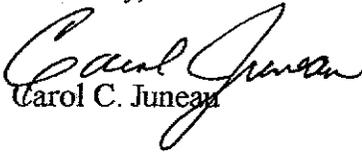
- How well are schools implementing Indian Education for All for all students in grades K-12 - are school policies in place, does the schools' curriculum have appropriate standards and benchmarks outlined for Indian Education for All across the curriculum, is professional development provided for all teachers to help them successfully integrate Indian Education for All in their lessons, are adequate resources available in the classrooms and libraries to support the curriculum for all students and teachers?
- As a separate component of the needs assessment, the disparity in educational achievement between the American Indian students in our state's K-12 schools and their non-Indian peers must be identified as well as the needs of schools to address this disparity.

In addition, on page 2, lines 27-29, the bill outlines groups that this committee will work closely with in implementing the educational needs and cost analysis in drafting a new funding formula including the Board of Public Education, the Office of Public Instruction, the Governor's Office, private organizations, professional educators, school trustees and members of the public. It is important for this committee to include representatives of Indian education as well. I have often found that if we are not specifically identified in legislation, we are often not included in the discussions. So, it would be important to consider an amendment to this bill to specifically include representatives of Indian education in Montana.

This interim committee will determine the costs of a basic system of free quality public elementary and secondary schools and what the state's share will be. This needs to include adequate funding for Indian Education for All as an integral part of the school funding formula that is developed by the State legislature both now and in the future. It is not a separate issue in school funding. We should not have to come to the legislature with separate bills and requests to implement Indian Education for All – it should have been and should become a normal part of the process of school funding both at the state levels and local levels.

The promise made 33 years ago in Montana's constitution will not be realized until our schools, our teachers and all students receive the adequate financial support to fully implement Indian Education for All Montanans.

Sincerely,

  
Carol C. Juneau

## **Article X, 1 (2) – Supreme Court Decision – Sherlock Decision**

### **Article X ---Education and Public Lands**

Section 1. **Educational Goals** and Duties: (1) It is the goal of the people to establish a system of education, which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) **The state recognizes the distinct and unique cultural heritage of the American Indian and is committed in its educational goals to the preservation of their cultural integrity**

### **Supreme Court Decision, March 23, 2005: Issue 4:**

34 *Whether the District Court erred in concluding that the State has violated Article X, Section 1 (2), by not recognizing the cultural heritage of American Indians in its educational goals.*

35 The District Court concluded that the State has failed to recognize the distinct and unique cultural heritage of American Indians and that it has shown no commitment in its educational goals to the preservation of Indian cultural identify, as demanded by Article X, Section 1 (2). It relied on our opinion in *Helena Elementary*, when we held that the "provision establishes a special burden in Montana for the education of American Indian children which must be addressed as part of the school funding issues." *Helena Elementary*, 236 Mont. at 58, 769 P.2d at 693. The State does not contest these conclusions. "This Court will not endeavor to review a matter when appellant has directed no argument toward it." *Sands v Nestegard* (1982), 198 Mont. 421,428, 656 P.2d 1189, 1993. Therefore, we merely recognize that the findings and the conclusions of the District Court regarding Article X, Section 1 (2) of the Montana Constitution stand unchallenged.

**EXCERPTS - SHERLOCK DECISION – APRIL 2004**  
**Regarding ARTICLE X, 1 (2)**

**MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY**

**FINDINGS OF FACT**

174. In *Helena Elementary I*, the Montana Supreme Court addressed this subsection and held that "[T]he provision establishes a special burden in Montana for the education of American Indian children which must be addressed as part of the school funding

175. Despite this admonition by the supreme court, it would appear that nothing has been done to effectuate subsection (2) of Article X, Section 1 of the Montana Constitution....

177. To have any meaning or effect, the Indian Education for All Act requires resources and programs, which, in turn, require funding....

178. In reality, the State appears to be defenseless on Plaintiffs' claim that Article X, Section 1(2) of the Montana Constitution has not been implemented by the State despite the constitution's direction to do so.

**CONCLUSIONS OF LAW AND ORDER**

8. This Court hereby rules that the current state funding system violates Article X, Section 1(2) of the Montana Constitution in that the State has failed to recognize the distinct and unique cultural heritage of American Indians and has shown no commitment in its educational goals to the preservation of their cultural identity.