

## 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 Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall 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.

**Section 2. Public school fund.** The public school fund of the state shall consist of:

- (1) Proceeds from the school lands which have been or may hereafter be granted by the United States,
- (2) Lands granted in lieu thereof,
- (3) Lands given or granted by any person or corporation under any law or grant of the United States,
- (4) All other grants of land or money made from the United States for general educational purposes or without special purpose,
- (5) All interests in estates that escheat to the state,
- (6) All unclaimed shares and dividends of any corporation incorporated in the state,
- (7) All other grants, gifts, devises or bequests made to the state for general educational purposes.

**Section 3. Public school fund inviolate.** The public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion.

**Section 4. Board of land commissioners.** The governor, superintendent of public instruction, auditor, secretary of state, and attorney general constitute the board of land commissioners. It has the authority to direct, control, lease, exchange, and sell school lands and lands which have been or may be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be provided by law.

**Section 5. Public school fund revenue.** (1) Ninety-five percent of all the interest received on the public school fund and ninety-five percent of all rent received from the leasing of school lands and all other income from the public school fund shall be equitably apportioned annually to public elementary and secondary school districts as provided by law.

(2) The remaining five percent of all interest received on the public school fund, and the remaining five percent of all rent received from the leasing of school lands and all other income from the public school fund shall annually be added to the public school fund and become and forever remain an inseparable and inviolable part thereof.

**Section 6. Aid prohibited to sectarian schools.** (1) The legislature, counties, cities, towns, school districts, and public corporations shall not make any direct or indirect appropriation or payment from any public fund or monies, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect, or denomination.

(2) This section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to non-public education.

**Section 7. Nondiscrimination in education.** No religious or partisan test or qualification shall be required of any teacher or student as a condition of admission into any public educational institution. Attendance shall not be required at any religious service. No sectarian tenets shall be advocated in any public educational institution of the state. No person shall be refused admission to any public educational institution on account of sex, race, creed, religion, political beliefs, or national origin.

**Section 8. School district trustees.** The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.

**Section 9. Boards of education.** (1) There is a state board of education composed of the board of regents of higher education and the board of public education. It is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each component board.

(2) (a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex officio non-voting members of the board.

(c) The board shall appoint a commissioner of higher education and prescribe his term and duties.

(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.

(3) (a) There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be provided by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state superintendent of public instruction shall be ex officio non-voting members of the board.

**Section 10. State university funds.** The funds of the Montana university system and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be provided by law, and shall be guaranteed by the state against loss or diversion. The interest from such invested funds, together with the rent from leased lands or properties, shall be devoted to the maintenance and perpetuation of the respective institutions.

**Section 11. Public land trust, disposition.** (1) All lands of the state that have been or may be granted by congress, or acquired by gift or grant or devise from any person or corporation, shall be public lands of the state. They shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised.

(2) No such land or any estate or interest therein shall ever be disposed of except in pursuance of general laws providing for such disposition, or until the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, has been paid or safely secured to the state.

(3) No land which the state holds by grant from the United States which prescribes the manner of disposal and minimum price shall be disposed of except in the manner and for at least the price prescribed without the consent of the United States.

(4) All public land shall be classified by the board of land commissioners in a manner provided by law. Any public land may be exchanged for other land, public or private, which is equal in value and, as closely as possible, equal in area.



AN ACT ESTABLISHING A SCHOOL FUNDING INTERIM COMMISSION; PROVIDING THAT THE COMMISSION BE FORMED AT LEAST ONCE EVERY 10 YEARS; REQUIRING THE COMMISSION TO CONDUCT A STUDY OF THE EDUCATIONAL NEEDS AND COSTS RELATED TO THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS; PROVIDING FOR COMMISSION MEMBERSHIP AND STAFFING; REQUIRING ISSUANCE OF A REPORT; AMENDING SECTION 20-9-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. School funding interim commission.** (1) There is a school funding interim commission that must be formed during the 2015-2016 interim and each successive fifth interim pursuant to 20-9-309. The commission shall:

- (a) conduct a study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools; and
  - (b) if necessary, recommend to the following legislature changes to the state's funding formula.
- (2) In conducting the study, the commission may:
- (a) review the work of previous studies and commissions;
  - (b) consider recommendations and topics provided by other interim or standing legislative committees, 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;
  - (c) review how the state's education funding policy has evolved as a result of litigation;
  - (d) seek input from representatives from 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;
  - (e) consider the state's existing and projected financial resources as well as the needs and concerns of Montana taxpayers;
  - (f) authorize research and studies to be conducted by reputable and reliable experts in the public or

private sectors; and

(g) request research and analysis from the legislative fiscal division, the office of public instruction, the department of revenue, and any other state agency or entity that maintains information or data relevant to the study.

(3) The members of the commission are:

(a) six members of the house of representatives, three from the majority party and three from the minority party, appointed by the speaker of the house in consultation with the house majority leader and the house minority leader;

(b) six members of the senate, three from the majority party and three from the minority party, appointed by the president of the senate in consultation with the senate majority leader and the senate minority leader; and

(c) four members of the public to be appointed as follows:

(i) two public members appointed by the speaker of the house with the consent of the house minority leader; and

(ii) two public members appointed by the president of the senate with the consent of the senate minority leader.

(4) The commission shall select its presiding officer at the first meeting of the commission.

(5) The commission is attached for administrative purposes to the legislative services division, and the legislative services division shall provide sufficient and appropriate support to the commission in order that it may carry out its statutory duties, within the limitations of legislative appropriations.

(6) The commission is staffed by the legislative services division. The legislative fiscal analyst shall assign staff to assist the commission.

(7) The commission shall issue a report on the commission's findings and recommendations, including any draft legislation for amending the state school funding formula, by no later than the 15th of September preceding the next regular legislative session.

(8) Unless the person is a full-time salaried officer or employee of the state or a political subdivision of the state, a nonlegislative member appointed to the commission is entitled to salary and expenses to the same extent as a legislative member. If the appointee is a full-time salaried officer or employee of the state or of a political subdivision of the state, the appointee is entitled to reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503.

**Section 2.** Section 20-9-309, MCA, is amended to read:

**"20-9-309. Basic system of free quality public elementary and secondary schools defined -- identifying educationally relevant factors -- establishment of funding formula and budgetary structure -- legislative review.** (1) Pursuant to Article X, section 1, of the Montana constitution, the legislature is required to provide a basic system of free quality public elementary and secondary schools throughout the state of Montana that will guarantee equality of educational opportunity to all.

(2) As used in this section, a "basic system of free quality public elementary and secondary schools" means:

(a) the educational program specified by the accreditation standards provided for in 20-7-111, which represent the minimum standards upon which a basic system of free quality public elementary and secondary schools is built;

(b) educational programs to provide for students with special needs, such as:

(i) a child with a disability, as defined in 20-7-401;

(ii) an at-risk student;

(iii) a student with limited English proficiency;

(iv) a child who is qualified for services under 29 U.S.C. 794; and

(v) gifted and talented children, as defined in 20-7-901;

(c) educational programs to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5, through development of curricula designed to integrate the distinct and unique cultural heritage of American Indians into the curricula, with particular emphasis on Montana Indians;

(d) qualified and effective teachers or administrators and qualified staff to implement the programs in subsections (2)(a) through (2)(c);

(e) facilities and distance learning technologies associated with meeting the accreditation standards;

(f) transportation of students pursuant to Title 20, chapter 10;

(g) a procedure to assess and track student achievement in the programs established pursuant to subsections (2)(a) through (2)(c); and

(h) preservation of local control of schools in each district vested in a board of trustees pursuant to Article X, section 8, of the Montana constitution.

(3) In developing a mechanism to fund the basic system of free quality public elementary and secondary schools and in making adjustments to the funding formula, the legislature shall, at a minimum, consider the following educationally relevant factors:

- (a) the number of students in a district;
- (b) the needs of isolated schools with low population density;
- (c) the needs of urban schools with high population density;
- (d) the needs of students with special needs, such as a child with a disability, an at-risk student, a student with limited English proficiency, a child who is qualified for services under 29 U.S.C. 794, and gifted and talented children;
- (e) the needs of American Indian students; and
- (f) the ability of school districts to attract and retain qualified educators and other personnel.

(4) ~~By July 1, 2007, the~~ The legislature shall:

- (a) determine the costs of providing the basic system of free quality public elementary and secondary schools;
- (b) establish a funding formula that:
  - (i) is based on the definition of a basic system of free quality public elementary and secondary schools and reflects the costs associated with providing that system as determined in subsection (4)(a);
  - (ii) allows the legislature to adjust the funding formula based on the educationally relevant factors identified in this section;
  - (iii) is self-executing and includes a mechanism for annual inflationary adjustments;
  - (iv) is based on state laws;
  - (v) is based on federal education laws consistent with Montana's constitution and laws; and
  - (vi) distributes to school districts in an equitable manner the state's share of the costs of the basic system of free quality public elementary and secondary schools; and
- (c) consolidate the budgetary fund structure to create the number and types of funds necessary to provide school districts with the greatest budgetary flexibility while ensuring accountability and efficiency.

(5) At least every 10 years ~~following April 7, 2005,~~ the legislature shall:

- ~~(a) authorize a study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools; and~~

~~\_\_\_\_\_ (b) if necessary, incorporate the results of those assessments into the state's funding formula form the school funding interim commission pursuant to [section 1] for the purpose of reassessing the state's school funding formula."~~

**Section 3. Appropriation.** There is appropriated from the general fund to the legislative services division for the biennium beginning July 1, 2015, \$55,000 for the purposes of convening the commission under [section 1]. It is intended that the commission hold one 1-week meeting in each year of the biennium.

**Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 5, and the provisions of Title 5 apply to [section 1].

**Section 5. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
SB 0128, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

SENATE BILL NO. 128

INTRODUCED BY K. HANSEN, M. MACDONALD

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