

SENATE BILL NO. 152
INTRODUCED BY D. RYAN

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; IDENTIFYING THE EDUCATIONALLY RELEVANT FACTORS ON WHICH THE BASIC SYSTEM IS ESTABLISHED; REVISING TERMS RELATING TO THE BASIC EDUCATIONAL PROGRAM; AMENDING SECTIONS 20-5-109, 20-7-111, AND 20-9-307, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, in adopting Article X, section 1(3), of the 1972 Montana Constitution, which requires the Legislature to provide a basic system of free quality public elementary and secondary schools and to fund the state's share of the cost of the basic elementary and secondary school system, the framers of the provision, on pages 1961 through 1963 of Volume VI of the Montana Constitutional Convention Verbatim Transcripts, discussed their intent that the basic program of education be determined or established by the Legislature; and

WHEREAS, in its November 9, 2004, preliminary order affirming the District Court's decision in Columbia Falls Elementary School District No. 6, et al. v. State, Cause No. 04-390 (2004), the Montana Supreme Court determined that the state's current funding system is not based on educationally relevant factors and stated that "[u]ntil such time as the legislature assesses education needs and defines "quality," [the Legislature] is not in a position to construct a funding system rationally related to educationally relevant factors"; and

WHEREAS, based on the Montana Supreme Court's order, it is clear that the court concluded that it is the Legislature's constitutional responsibility to define the components of a "basic system of free quality public elementary and secondary schools" and to identify the educationally relevant factors upon which the state's share of the basic system must be funded.

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

Section 1. Section 20-5-109, MCA, is amended to read:

"20-5-109. Nonpublic school requirements for compulsory enrollment exemption. To qualify its students for exemption from compulsory enrollment under 20-5-102, a nonpublic or home school ~~shall~~:

(1) shall maintain records on pupil attendance and disease immunization and make the records available

to the county superintendent of schools on request;

(2) shall provide at least 180 days of pupil instruction or the equivalent in accordance with 20-1-301 and 20-1-302;

(3) must be housed in a building that complies with applicable local health and safety regulations;

(4) shall provide an organized course of study that includes instruction in the subjects required of public schools as a basic ~~instructional~~ educational program pursuant to 20-7-111; and

(5) in the case of home schools, shall notify the county superintendent of schools, of the county in which the home school is located, in each school fiscal year of the student's attendance at the school."

Section 2. Section 20-7-111, MCA, is amended to read:

"20-7-111. Instruction in public schools. The board of public education shall define and specify the basic ~~instructional~~ educational program for pupils in public schools, and ~~such the program shall~~ must be set forth in the standards of accreditation. Other instruction may be given when approved by the board of trustees."

Section 3. Section 20-9-307, MCA, is amended to read:

"20-9-307. Basic system of free quality public elementary and secondary schools defined -- identifying educationally relevant factors -- 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) the basic educational program specified by the accreditation standards pursuant to 20-7-111;

(b) implementation of Indian education for all authorized in Title 20, chapter 1, part 5;

(c) implementation of educational programs for special needs students, including students with disabilities, at-risk students, and gifted and talented students;

(d) salaries and mandated employee benefits, including health insurance and retirement benefits, for district-certified and district-classified employees required to implement the programs identified in subsections

(2)(a) through (2)(c);

(e) resources and equipment necessary to provide the programs identified in subsections (2)(a) through

(2)(c) in a classroom setting or, if appropriate, through distance, online, and technology-delivered learning programs. Resources and equipment may include but are not limited to:

(i) textbooks and other instructional materials;

(ii) specialized materials and delivery systems for students with special needs; and

(iii) distance, online, and technology-delivered learning programs.

(f) inservice training and staff development required to implement the programs identified in subsections

(2)(a) through (2)(c) in a classroom setting or through distance learning;

(g) capital outlay, including funds necessary for the maintenance, improvement, equipping, renovating, or major repair of a school building or facility;

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

(i) a procedure or method to assess and track student achievement within the basic system of free quality public elementary and secondary schools.

(3) In addition to the factors identified in subsection (2), the educationally relevant factors on which the basic system of free quality public elementary and secondary schools is established include:

(a) addressing the needs of schools or districts with low population density;

(b) addressing the needs of at-risk students, including students within a district who are eligible for participation in the free or reduced-price lunch program pursuant to 42 U.S.C. 1751, et seq., or students who are eligible to participate in programs serving students with limited English proficiency;

(c) the use of research to ensure best educational practices for promoting student achievement;

(d) the ability to recruit and retain qualified teachers in areas of the state experiencing problems in recruiting and retaining qualified teachers; and

(e) the preservation of local control of school districts pursuant to Article X, section 8, of the Montana constitution.

(2)(4) The state shall assess the costs of the basic system of free quality public elementary and secondary schools and shall, in an equitable manner and based on the educationally relevant factors identified in subsection (3), 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, state support for reimbursement of transportation and school facilities, and state support for school employee retirement in the manner established in this title.

(3)(5) The budgetary vehicle for achieving the financing system established in subsection (2) (4) is the general fund budget of the school district. The purpose of the district general fund budget is to finance these

~~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, of a district not financed by other funds established for special purposes in this title.

~~(4)(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 4. Effective date -- applicability.** [This act] is effective July 1, 2005, and applies to the school fiscal years beginning on or after July 1, 2006.

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