

SENATE BILL NO. 152  
INTRODUCED BY 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; PROVIDING A STATEMENT OF LEGISLATIVE GOALS FOR PUBLIC SCHOOLS; REQUIRING THE BOARD OF PUBLIC EDUCATION TO SUBMIT NEW OR PROPOSED AMENDMENTS TO ACCREDITATION STANDARDS TO THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE FOR REVIEW AND FOR A DETERMINATION OF FISCAL IMPACT FOR INCLUSION IN THE EXECUTIVE BUDGET; REVISING TERMS RELATING TO THE BASIC EDUCATIONAL PROGRAM REQUIRING THE LEGISLATURE TO DETERMINE THE COSTS OF THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS THROUGH STUDIES AUTHORIZED AND CONDUCTED BY THE LEGISLATURE OR THROUGH THE ADOPTION OF ANALYSES FROM EXISTING STUDIES CONDUCTED BY REPUTABLE AND RELIABLE EXPERTS; REQUIRING THAT THE LEGISLATURE AUTHORIZE A STUDY EVERY 6 AT LEAST EVERY 10 YEARS TO REASSESS THE EDUCATIONAL NEEDS AND COSTS RELATED TO THE BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS AND INCORPORATE THE RESULTS OF THOSE REASSESSMENTS INTO THE STATE'S FUNDING FORMULA IF NECESSARY; AMENDING SECTIONS 20-5-109, 20-7-111, AND SECTION SECTIONS 20-7-101 AND 20-9-303, MCA; REPEALING SECTIONS 20-2-115 AND 20-9-307, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

~~WHEREAS, ARTICLE X, SECTION 1, OF THE MONTANA CONSTITUTION STATES, "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"; AND~~

~~WHEREAS, ARTICLE X, SECTION 8, OF THE MONTANA CONSTITUTION STATES, "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"; AND~~

~~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 EQUITABLY 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 COURT IN ITS 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; AND~~

~~WHEREAS, A BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS INTENDS TO PROVIDE A QUALITY EDUCATION, WHICH WILL PROMOTE THE FULL DEVELOPMENT OF A STUDENT'S POTENTIAL TO DELIBERATE AND DISCERN, TO ACQUIRE A BROAD KNOWLEDGE BASE, AND TO LEARN INDEPENDENTLY; AND~~

~~WHEREAS, THE GOAL OF A QUALITY EDUCATION IS TO NURTURE DEMOCRATIC, PRODUCTIVE, AND RESPONSIBLE CITIZENRY;~~

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

**NEW SECTION. Section 1. Legislative goals for public elementary and secondary schools.** It is the goal of the legislature that Montana's public elementary and secondary school system, in cooperation with parents or guardians, create a learning environment for each student that:

- (1) furthers the ability to reason critically and creatively;
- (2) fosters the ability to effectively communicate ideas, knowledge, and thoughts;
- (3) develops a sense of personal and civic responsibility;
- (4) develops a strong work ethic, postsecondary readiness, and employment skills; and
- (5) encourages a healthy lifestyle.

**NEW SECTION. Section 2. 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 or disabilities, at-risk students, students with limited English proficiency, and gifted and talented students;

(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, well-prepared, and effective teachers, staff, and administrators to implement the programs in subsections (2)(a) through (2)(c);

(e) facilities and onsite distance learning technologies;

(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, the legislature shall, at a minimum, consider the following educationally relevant factors in making adjustments to the funding formula:

(a) the number of students in a district;

(b) the needs of isolated schools and school districts with low population density;

(c) the needs of urban school districts and school districts with high population density;

(d) the needs of at-risk students, students with special needs or disabilities, students with limited English proficiency, and gifted and talented students;

- (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 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;
    - (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 education 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 [the effective date of this act], 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.

**Section 3.** Section 20-7-101, MCA, is amended to read:

**"20-7-101. Standards of accreditation.** (1) Standards of accreditation for all schools ~~shall~~ must be adopted by the board of public education upon the recommendations of the superintendent of public instruction.

(2) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal to the education and local government interim committee for review. The interim committee shall request a fiscal analysis to be prepared by the legislative fiscal division. The legislative fiscal division shall provide its analysis to the interim committee and to the office of budget and program planning to be used in the preparation of the executive budget.

(3) If the fiscal analysis of the proposal is found by the legislative fiscal division to have a substantial fiscal impact, the board may not implement the standard until July 1 following the next regular legislative session

and shall request that the same legislature fund implementation of the proposed standard. A substantial fiscal impact is an amount that cannot be readily absorbed in the budget of an existing school district program.

~~(2)~~(4) Standards for the retention of school records must be as provided in 20-1-212."

**Section 4.** Section 20-9-303, MCA, is amended to read:

**"20-9-303. Nonisolated school BASE budget funding -- special education funds.** (1) An elementary school that has an ANB of nine or fewer pupils for 2 consecutive years and that is not approved as an isolated school under the provisions of 20-9-302 may budget and spend the BASE budget amount, but the county and state shall provide one-half of the direct state aid, and the district shall finance the remaining one-half of the direct state aid by a tax levied on the property of the district. When a school of nine or fewer pupils is approved as isolated under the provisions of 20-9-302, the county and state shall participate in the financing of the total amount of the direct state aid.

(2) Funds provided to support the special education program may be expended only for special education purposes as approved by the superintendent of public instruction in accordance with the special education budgeting provisions of this title. Expenditures for special education must be accounted for separately from and in addition to the balance of the school district general fund budgeting requirements provided in ~~20-9-307~~ and 20-9-308. The amount of the special education allowable cost payments that is not matched with district funds, as required in 20-9-321, will reduce by a like amount the district's ensuing year's allowable cost payment for special education."

NEW SECTION. **Section 5. Repealer.** Sections 20-2-115 and 20-9-307, MCA, are repealed.

NEW SECTION. **Section 6. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to [sections 1 and 2].

NEW SECTION. **Section 7. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

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