

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 DEFINITIONS; 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 20-1-101, 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~~, 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, well-prepared, and effective teachers, staff, and administrators~~ AND EFFECTIVE TEACHERS OR ADMINISTRATORS AND QUALIFIED STAFF to implement the programs in subsections (2)(a) through (2)(c);

(e) facilities and ~~onsite~~ 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 ~~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~~ SCHOOLS with high population density;
  - (d) the needs of ~~at-risk students; students with special needs or disabilities; students,~~ 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 ~~students~~ 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 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 ~~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 20-1-101, MCA, IS AMENDED TO READ:

**"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following

definitions apply:

(1) "Accreditation standards" means the body of administrative rules governing standards such as:

(a) school leadership;

(b) educational opportunity;

(c) academic requirements;

(d) program area standards;

(e) content and performance standards;

(f) school facilities and records;

(g) student assessment; and

(h) general provisions.

~~(1)~~(2) "Agricultural experiment station" means the agricultural experiment station established at Montana state university-Bozeman.

(3) "At-risk student" means any student who is affected by environmental conditions that negatively impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

~~(2)~~(4) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils attending the public schools of a district.

~~(3)~~(5) "Board of public education" means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

~~(4)~~(6) "Board of regents" means the board of regents of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

~~(5)~~(7) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

~~(6)~~(8) "County superintendent" means the county government official who is the school officer of the county.

~~(7)~~(9) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

(10) (a) "Educational program" means a set of educational offerings designed to meet the program area standards contained in the accreditation standards.

(b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

~~(8)~~(11) "K-12 career and vocational/technical education" means organized educational activities that have been approved by the office of public instruction and that:

(a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills that the pupil needs to prepare for further education and for careers in the current or emerging employment sectors; and

(b) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills of the pupil.

~~(9)~~(12) "Principal" means a person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

~~(10)~~(13) "Pupil" means a child who is 6 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but has not yet reached 19 years of age and who is enrolled in a school established and maintained under the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public expense.

~~(11)~~(14) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

(15) "Qualified and effective teacher or administrator" means an educator who is licensed and endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as established by the board of public education.

~~(12)~~(16) "Regents" means the board of regents of higher education.

~~(13)~~(17) "School food services" means a service of providing food for the pupils of a district on a nonprofit basis and includes any food service financially assisted through funds or commodities provided by the United States government.

~~(14)~~(18) "State board of education" means the board composed of the board of public education and the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

~~(15)~~(19) "State university" means Montana state university-Bozeman.

~~(20)~~ "Student with limited English proficiency" means any student:

~~(a)~~ (i) who was not born in the United States or whose native language is a language other than English;

~~(ii)~~ who is a Native American and who comes from an environment in which a language other than English has had a significant impact on the individual's level of English proficiency; or

~~(iii)~~ who is migratory, whose native language is a language other than English, and who comes from an environment in which a language other than English is dominant; and

~~(b)~~ whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student:

~~(i)~~ the ability to meet the state's proficiency assessments;

~~(ii)~~ the ability to successfully achieve in classrooms where the language of instruction is English; or

~~(iii)~~ the opportunity to participate fully in society.

~~(16)~~(21) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

~~(17)~~(22) "System" means the Montana university system.

~~(18)~~(23) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an emergency authorization of employment has been issued under the provisions of 20-4-111.

~~(19)~~(24) "Textbook" means a book or manual used as a principal source of study material for a given class or group of students.

~~(20)~~(25) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

~~(21)~~(26) "Trustees" means the governing board of a district.

~~(22)~~(27) "University" means the university of Montana-Missoula.

~~(23)~~(28) "Vocational-technical education" means vocational-technical education of vocational-technical students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled community college, as designated by the board of regents."

**Section 4.** 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 5.** 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 6. Repealer.** Sections 20-2-115 and 20-9-307, MCA, are repealed.

NEW SECTION. **Section 7. 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 8. 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 9. Effective date.** [This act] is effective on passage and approval.

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