

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION & CULTURAL RESOURCES**

**Call to Order:** By Chairman Ted Schye, on March 6, 1991, at 3:00 p.m.

**ROLL CALL**

**Members Present:**

Ted Schye, Chairman (D)  
Ervin Davis, Vice-Chairman (D)  
Steve Benedict (R)  
Ernest Bergsagel (R)  
Robert Clark (R)  
Vicki Cocchiarella (D)  
Fred "Fritz" Daily (D)  
Alvin Ellis, Jr. (R)  
Gary Feland (R)  
Gary Forrester (D)  
H.S. "Sonny" Hanson (R)  
Dan Harrington (D)  
Tom Kilpatrick (D)  
Scott McCulloch (D)  
Richard Simpkins (R)  
Barry "Spook" Stang (D)  
Norm Wallin (R)  
Diana Wyatt (D)

**Members Excused:** Reps. Floyd "Bob" Gervais and Bea McCarthy

**Staff Present:** Andrea Merrill, Legislative Council  
Dianne McKittrick, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** CHAIRMAN SCHYE explained to the committee there was little possibility of Saturday meetings in relation to the schedule change.

**HEARING ON SB 88**

**Presentation and Opening Statement by Sponsor:**

**SENATOR BOB BROWN, Senate District 2, Whitefish,** said this bill changes the terms of appointment for the Teacher Certification Standards and Practices Advisory Council created in 1987 to advise the Board of Public Education on matters pertaining to

teacher certification. The main change is that members would serve three years instead of two, and the terms would be staggered to provide more continuity.

Proponents' Testimony:

Mary Sheehy Moe, Member, Certification Standards and Practices Advisory Council, presented EXHIBITS 1 and 2. The Council has developed the Code of Ethics and guidelines for distance learning in Montana. The Council has conducted forums bringing educators, administrators, and school board members together to discuss educational issues. She stressed that the expanded term is very necessary because two years is not sufficient for council members to gain the experience needed to be productive. The Council meets quarterly for two days and it takes at least a year to gain understanding of vital issues.

Wayne Buchanan, Board of Public Education, said the Council has been a terrific idea, providing the Board with a great deal of credibility. Expanding the term from two to three years would allow members to acquire more experience and staggered terms would allow for not losing so many members at one time.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SENATOR BROWN thanked the committee and said REP. HARRINGTON would carry the bill in the House.

HEARING ON SB 32

Presentation and Opening Statement by Sponsor:

SENATOR TOM KEATING, Senate District 44, Billings, said SB 32 is a referendum to the people of Montana suggesting they amend the Constitution of the State of Montana to remove the phrases "equality of education" and "quality of education" and provide that the Legislature will distribute funds equitably to the schools and provide for ways for the school districts to fund themselves. SEN. KEATING presented EXHIBIT 3 saying Judge Weber said the word "equal" in the Constitution actually means "identical" in that all 526 school districts have to be identical in order to qualify as equal under the Constitution. With the use of the word "equal" in the Constitution, the Supreme Court is holding that all schools have to be identical and there is no way, through the legislative process, that can be achieved. It isn't the amount of money spent in the school that determines if the students get a good education. There are other things such as parental control, student initiative, and quality of teachers,

all of which help to determine the education. For years before the 1972 Constitution, Montana had quality schools and ranked very high nationally. Equality or equal opportunity of education in the Constitution was not needed nor the word quality in order to have adequately funded schooling and a quality education. The more the state centralizes funding of education the more it diminishes local control which is provided for in the Constitution. Refer this to the people of Montana and let them decide. This group can't do anything to the Constitution by itself but to avoid costly litigation and to get back to the business of education at a fair price, seriously consider referring this measure to the people of Montana.

Proponents' Testimony: None

Opponents' Testimony:

Jack Copps, Deputy Superintendent, Office of Public Instruction (OPI), stated opposition to removing the words quality or equality from the Constitution and opposition to even suggesting to the people of Montana to do so. The framers valued those words and OPI doesn't believe the people of this state feel any differently today about it than they did in 1972. Also, the suggestion that Judge Weber meant the word equality be equated with identical in the Supreme Court Decision is absurd. If equal means identical there isn't a problem because Article 14 of the US Constitution addresses equal protection under the law. If equal in the US Constitution means identical then people are obliged to follow that Constitution and it doesn't make any difference what is done to Montana's Constitution. There will be continuing lawsuits and equalization in funding throughout this state will continue to be an issue.

Pat Melby, Underfunded School Coalition, Plaintiffs, in the Equalization Lawsuit, disagreed with SEN. KEATING'S interpretation of Judge Weber's opinion saying if this Legislature really wants to avoid costly lawsuits over equalization, the thing to do is equalize school funding, not change the Constitution.

Eric Feaver, Montana Education Association, (MEA), stated the MEA is opposed to SB 32 saying it received a mere seven votes in the Senate and needs 93 votes in the House to be passed on to the people, which is highly unlikely. SB 32 strikes equality, strikes quality and strikes the legislative obligation to fund Montana's public schools. The people would be confused by the language given to them at the polls. The language would suggest if a person voted for guaranteeing educational opportunity they would be doing the right thing and that would be exactly what SEN. KEATING would want. Voting against would be to retain the current constitutional language. The language that would appear on the ballot is extraordinarily misleading and very craftily done.

Terry Minow, Montana Federation of Teachers, (MFT), stated support for the current constitutional language guaranteeing quality and equality to all Montana students. The Constitution and its guarantees are a source of pride to all educators and Montanans who recognize the foresight of the drafters of the state's Constitution.

Bruce Moerer, Montana School Boards Association, (MSBA), stated opposition and said it is not in the best interests of Montana's students.

Jesse Long, School Administrators of Montana, (SAM), stated opposition for many previously stated reasons.

Wayne Buchanan, Board of Public Education stated opposition for previously stated reasons.

Informational Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. KEATING pointed out that everyone opposed to SB 32 is living off the system. There is no one here to protect their taxes or tax burden because they are out working to make a living. If something isn't done soon, taxpayers won't be able to afford an education system in Montana and unless the tax structure is corrected, Montana will be in deeper and deeper trouble.

#### HEARING ON SB 141

Presentation and Opening Statement by Sponsor:

SENATOR MIGNON WATERMAN, Senate District 22, Helena, said SB 141 would allow Special Education Cooperatives, which are used throughout Montana to provide special education services especially in rural districts and to co-op those services to provide them more economically and efficiently. If school districts wanted to co-op curriculum development, they could. SB 141 also encourages administrative efficiency, cooperation and cost sharing.

Proponents' Testimony:

Gail Gray, Office of Public Instruction, (OPI), said this legislation is very simple and would allow school districts to provide services together that would not be provided separately. Curriculum development, guidance services, library services, and miscellaneous services could be provided in a more cost effective manner. Participation in cooperatives is entirely voluntary.

Wayne Buchanan, Board of Public Education, said this is one mechanism for providing alternative standards and is a very good

bill. School districts are already entering into these arrangements and this provides a legal mechanism for continuing it.

**Bruce Moerer, Montana School Boards Association, (MSBA),** urged support.

**Jesse Long, School Administrators of Montana, (SAM),** said a SAM Resolution supported this bill with the hope it provides for greater efficiency. Oftentimes there are too many administrators. This idea to share administrative services is entirely optional and deserves consideration.

**Kay McKenna, Montana Association of County School Superintendents, (MACSS),** said this bill provides a third option to school districts. There currently are interlocal agreements, joint school districts and now this option.

**Rachel Vielleux, Missoula County Superintendent of Schools, Fiscal Agent for Missoula Area Special Education Cooperative,** said their co-op represents almost 20 school districts in four counties and this arrangement would be most beneficial. Their co-op would be a perfect vehicle for coordinating services previously mentioned.

**Vern Barkell, Director of Special Education for Yellowstone West Co-op, Laurel,** said they serve 20 districts throughout Carbon County as well as the western part of Yellowstone County. He had been requested by the Montana Council of Administrators of Special Education to express their support for the bill. Special Education cooperatives have been able to provide, over the past years, quality and cost effective services to disabled children. This is particularly important for medium and small school districts in Montana. All cooperatives have management boards composed of representatives of local school districts appointed by school boards; thusly, the control and maintenance of these co-ops still rests in the hands of local school districts.

**Michael Ikard, Director, Central Montana Resource Center, Lewistown,** said they serve six counties and approximately 20 districts. A co-op is a very logical model since they have a board, salary schedules, policies and structure. There is no need to reinvent the wheel and the co-ops are in place. The co-ops are already functioning, perhaps illegally, while not being aware of it.

**Eric Feaver, Montana Education Association, (MEA),** said on page 2, line 11 and on page 5, line 7, certain words are underlined to emphasize that the relationship of the programs and services of this cooperative for special education purposes, will be different from the other services talked about, i.e., curriculum, guidance and counseling, accounting or other important things that could be and should be done through cooperatives. This will allow some districts to achieve standards they might not

otherwise meet. Special Education Cooperatives require that school districts go into the cooperative agreement for at least three years. This bill is written so that if school districts want to cooperate on other issues, it doesn't have to be three years - it can be less. It should be on some continuous basis and not an occasional year-by-year basis which is just good management practice. If it is good and proper for special education services to do that, then it should be good for other services to do so cooperatively. The MEA hopes this committee will amend out that language on line 11, page 2 as well as line 7, page 5.

Terry Minow, Montana Federation of Teachers, stated support.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members:

CHAIRMAN SCHYE asked Gail Gray to speak to Eric Feaver's proposed amendments. Ms. Gray explained for example, if several districts got together for curriculum development and received a one-year grant from OPI, it would impair districts since they would have to continue the second and third year with no money. It is most important for OPI to have the bill pass. There is no real strong feeling about his proposal.

REP. BENEDICT asked Bruce Moerer about the proposed amendment. Mr. Moerer said the MSBA couldn't support the bill with that amendment.

REP. ELLIS asked Dori Nielson about Gail Gray's comment concerning the expanded opportunity of cooperatives to do almost anything for a school district including any part of the curriculum or possibly all the curriculum. Jesse Long said it would allow for the sharing of administrators. Is that what they see this legislation doing? Ms. Nielson answered yes, it would likely allow administrative sharing, curriculum sharing and other things districts can't do all alone. This would allow cooperation between districts that don't share boundaries or facilities.

REP. STANG asked Bruce Moerer why another bill is needed when a couple years ago a bill passed allowing districts to virtually share administrators, form the same school board etc. Mr. Moerer said that bill dealt with unification and joint boards. As a practical matter, the same thing can be done with that bill but it requires a new type structure be set up while this bill allows schools to do these things with the existing structures. It is much simpler if done under the confines of this bill and existing structures.

CHAIRMAN SCHYE asked Gail Gray referring to page 5, line 22 where

it says, "cooperatives formed after June 30, 1990", would that include rulemaking authority for a Statement of Intent on this bill. Ms. Gray said yes, that was amended after the first Senate hearing at the request of the School Boards Association since they weren't comfortable that the rulemaking authority was originally indicated and they requested that particular verbiage. Extensive rulemaking is not expected. There already is rulemaking authority for special education. This is all voluntary. CHAIRMAN SCHYE said a Statement of Intent was still necessary.

REP. BENEDICT asked SEN. WATERMAN how she felt about the amendment. SEN. WATERMAN said this is an excellent vehicle for encouraging cooperation and she would not want to discourage cooperation with a three-year figure.

Closing by Sponsor:

SEN. WATERMAN said members are aware of the need for small rural districts to have the opportunity to provide programs which larger districts can provide. This bill provides the vehicle for that. It is a "c" word but a good one, being "cooperation" rather than "consolidation".

EXECUTIVE ACTION ON HB 449

Motion: REP. DAILY moved HB 449 DO PASS.

Motion: REP. STANG moved to adopt the amendment to HB 449.

Discussion: Andrea Merrill explained the amendment from OPI saying it was to clarify that this \$25 million is in addition to any base appropriation in the OPI budget in HB 2. EXHIBIT 4 CHAIRMAN SCHYE said these bills go directly to Appropriations.

REP. BENEDICT asked how much money for special education is in the Governor's budget. Dori Nielson said there is no additional amount, it is the same as last biennium, \$33.361 million annually.

CHAIRMAN SCHYE asked Dori Nielsen if the subcommittee has done anything with this in Appropriations. She said she didn't believe so.

Motion/Vote: Motion to amend CARRIED with REP. SIMPKINS voting no.

Motion/Vote: Rep. Daily moved HB 449 DO PASS AS AMENDED. Motion CARRIED upon voice vote 11 to 8 with Reps. Benedict, Bergsagel, Clark, Ellis, Feland, Hanson, Simpkins and Wallin voting no.

EXECUTIVE ACTION ON HB 656

Motion/Vote: REP. DAILY moved HB 656 DO PASS.

HOUSE EDUCATION & CULTURAL RESOURCES COMMITTEE

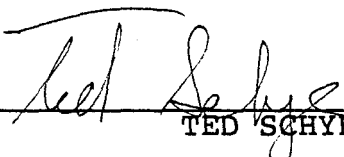
March 6, 1991

Page 8 of 8

Vote: Motion **CARRIED** upon voice vote 11 to 8 with Reps.  
**Benedict, Bergsagel, Clark, Ellis, Feland, Hanson, Simpkins and**  
**Wallin** voting no.

ADJOURNMENT

Adjournment: 4:00 p.m.

  
\_\_\_\_\_  
TED SCHYE, Chair

  
\_\_\_\_\_  
DIANNE MCKITTRICK, Secretary

TS/dMcK



**HOUSE OF REPRESENTATIVES**

**EDUCATION AND CULTURAL RESOURCES COMMITTEE**

**ROLL CALL**

**DATE** 3-6-91

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. FLOYD "BOB" GERVAIS			✓
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY			✓
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

HOUSE STANDING COMMITTEE REPORT

March 7, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 449 (first reading copy -- white) do pass as amended .

Signed: \_\_\_\_\_  
Ted Schye, Chairman

And, that such amendments read:

1. Page 1, line 15.  
Following: "of the"  
Insert: "approved"

2. Page 1, line 16.  
Following: "20-9-321."  
Insert: "This appropriation is in addition to any base appropriation for funding the special education costs of school districts for the biennium ending June 30, 1993."

HOUSE STANDING COMMITTEE REPORT

March 7, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 656 (first reading copy -- white) do pass .

Signed: \_\_\_\_\_  
Ted Schye, Chairman

# The Standards . . . and the Standard Questions

To the Montana Educator:

In 1990, the Montana Board of Public Education, acting on the recommendation of the Montana Certification Standards and Practices Advisory Council, accepted the set of eight standards for Montana Educators. The Board also encouraged a positive, proactive implementation of the standards and recognized the Advisory Council as the appropriate body to define, interpret and revise the code.

Thus the code, authored by the Council and approved by educational groups throughout the state, became the commonly accepted set of standards for the ethical conduct of Montana educators. Beyond providing the public with a statement of the ideals embraced by educators, the Code is intended to provide all educators with a point of reference for their decisions as professionals.

To that end, The Certification Standards and Practices Advisory Council also compiled the following questions to serve as samples to illustrate and define each standard in the Code. While the questions do not encompass every ethical consideration posed by each standard, they do represent the most common ethical considerations confronted by the educator.

These questions allow each professional to examine his or her own conduct within a commonly accepted ethical framework.

Certification Standards and Practices  
Advisory Council

**Montana educators make the well-being of students the fundamental value in all decisions and actions.**

- Do I help students recognize and reach their academic potential?
- Do I make every effort to protect students from conditions harmful to learning or health and safety?
- Do I take care not to expose students to unnecessary embarrassment or disparagement?
- Do I treat all students with concern and respect?
- Do I choose discipline strategies carefully, as means to instruct and assert principles, rather than to vent anger?
- Do I forgive students their indiscretions, not giving in to vindictiveness or reprimand?
- Do I allow students access to varying points of view?

**Montana educators fulfill professional responsibilities with diligence and integrity.**

- Do I fulfill my obligations in a timely manner?
- Do I take care not to make personal use of school property?
- Do I refuse any gift, favor or gratuity which might influence, or appear to influence, my professional judgment?
- Do my extracurricular involvements enhance, rather than interfere with, my effectiveness as an educator?
- Do I take care to distinguish between my personal views and those of the school with which I am affiliated?

- Do I refrain from using coercion or the promise of favor to influence colleagues?
- Am I honest about my qualifications and those of fellow educators?

**Montana educators protect the civil and human rights of all students and colleagues.**

- Do I provide equal opportunities for all students?
- Do I keep personal information about a student or colleague confidential unless disclosure serves a compelling professional or legal purpose?
- Do I refrain from interfering with colleagues' exercise of their political and professional rights and responsibilities?
- Do I recognize that students have a right to privacy and to due process?
- Do I show a tolerance for points of view which differ from mine, both in and out of the classroom?

**Montana educators know the rules, policies, regulations, and laws governing their professional conduct.**

- Am I aware of the statutes which regulate my conduct as an educator?
- Have I read my contract and do I understand its demands upon me and my employer?
- Do I familiarize myself with school rules and policies which affect my conduct?

Montana educators pursue appropriate measures to change rules, policies, regulations, and laws which are not consistent with sound educational goals.

- Do I use professional procedures to evaluate conditions and practices?
- Do I report unsound educational practices to the appropriate person?
- Do I attempt to keep my employer informed of conditions that make it difficult or impossible for me to fulfill my contract?
- Do I work through appropriate channels to improve the contract?
- Do I work to change unsound policies, rules, regulations and laws?

Montana educators recognize parents and the public as integral parts of the school community and encourage their involvement in education.

- Do I keep parents informed about the progress of their children?
- Do I seek parents' help in educating their children?
- Do I take care not to suppress or distort information relevant to students' progress?
- Do I present facts about educational matters accurately in direct and indirect public expressions?
- Do I recognize the right of the public to participate in the formulating of the educational program?
- Do I endeavor to know and understand the community cultures and the home environments of my students?
- Do I assist in creating an educational program which reflects the needs and standards of the community and society?

Montana educators maintain professional standards and seek to improve the effectiveness of the profession.

- Do I assess my own professional effectiveness and take steps to improve it?
- Do I involve myself in professional organizations and activities?
- Do I refrain from making critical or malicious comments about colleagues?
- Do I cooperate in the selective recruitment of prospective educators?
- Do I assist in the orientation of novice teachers, interns and student teachers?
- Do I work with my colleagues to build a positive environment?

Montana educators exemplify and foster a philosophy of education which encourages a lifelong pursuit of learning.

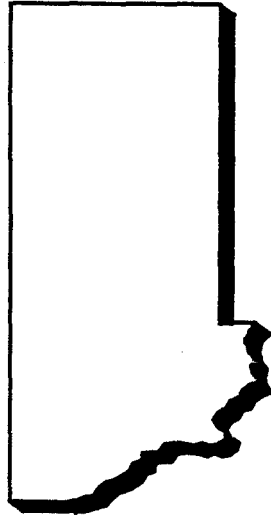
- Do I seek to further my education in and beyond my field, to keep current, to broaden my knowledge and to expand my expertise?
- Do I take care not to suppress or distort subject matter relevant to a student's intellectual growth?
- Do I encourage students to take independent action in their own pursuit of learning?
- Do I encourage a love of learning in my students?

If you have questions or concerns about Montana's Code of Ethics for Educators, write:

Certification Standards and Practices  
Advisory Council  
33 South Last Chance Gulch  
Helena, MT 59620

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# The Code of Ethics for Montana Educators



## Questions for Self- Assessment

EXHIBIT

DATE 3-6-91

HB 5B 88

# 1

# 2  
EXHIBIT \_\_\_\_\_  
DATE 3-6-91  
HB SB 88

**Professional Educators of Montana  
Code of Ethics**

**Preamble**

The professional conduct of every educator affects attitudes toward the profession and toward education. Aware of the importance of maintaining the confidence of students, parents, colleagues and the public, Montana educators strive to sustain the highest degree of ethical conduct.

Montana educators value the worth and dignity of every person and the pursuit of truth, knowledge and excellence. While the freedom to learn and the freedom to teach are essential to education in a democracy, educators in Montana balance these freedoms with their own adherence to this ethical code.

**Members of the Profession of Education in Montana:**

- Make the well-being of students the fundamental value in all decisions and actions.
- Fulfill professional responsibilities with diligence and integrity.
- Protect the civil and human rights of students and colleagues.
- Know the policies, regulations, rules, and laws governing the professional conduct of educators.
- Pursue appropriate measures to change those policies, regulations, rules, and laws which are inconsistent with sound educational goals.
- Recognize parents and the public as integral parts of the school community, and encourage their involvement in education.
- Maintain professional standards and seek to improve the effectiveness of the profession.
- Exemplify and foster a philosophy of education which encourages a lifelong pursuit of learning.

EXHIBIT #3  
DATE 3-6-91  
HB 32

EXCERPT SUPREME COURT DECISION  
JUSTICE FRED WEBER

the State under the Foundation Program and for the districts under the voted levy system. We are not able to reach that type of a conclusion. As previously indicated, the 1985-86 school funding involved more than 20 different funds. The control of such funds is primarily in the Legislature. Our opinion is not directed at only one element of the system of funding public schools in Montana, as we recognize that the Legislature has the power to increase or reduce various parts of these elements, and in addition to add other elements for such funding.

\* While this opinion discusses spending disparities so far as pupils are concerned, we do not suggest that financial considerations of that type are the sole elements of a quality education or of equal educational opportunity. There are a number of additional factors which are a significant part of the education of each person in Montana, including but not limited to such elements as individual teachers, classroom size, support of the parents of students, and the desire and motivation on the part of the student which moves him or her to seek earnestly after an education. By not discussing these elements, we do not in any way suggest they are irrelevant, for the financing of education is only one aspect of equal educational opportunity. Our opinion is intentionally limited to the elements discussed in the opinion.

II

Should this Court clarify the District Court's findings regarding the accreditation standards promulgated by the Montana Board of Public Education?

Under Art. X, Sec. 9(3), Mont. Const., the Montana Board of Public Education (Board) has general supervisory power over the public school system. The Board has adopted state-wide accreditation standards for elementary and secondary schools. Those standards require teachers to be certified by

1889

ARTICLE XI  
EDUCATION

Section 1. It shall be the duty of the legislative assembly of Montana to establish and maintain a general, uniform and thorough system of public, free, common schools.

Sec. 2. The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the state by the general government known as school lands; and those granted in lieu of such lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the state from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates, or distributive shares of estates that may bequeath to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state, and all other grants, gifts, devises or bequests made to the state for general educational purposes.

Sec. 3. Such public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion, to be invested, so far as possible, in public securities within the state, including school district bonds, issued for the erection of school buildings, under the restrictions to be provided by law.

Sec. 4. The governor, superintendent of public instruction, secretary of state and attorney general shall constitute the state board of land commissioners, which shall have the direction, control, leasing and sale of the school lands of the state, and the lands granted or which may hereafter be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be prescribed by law.

Sec. 5. Ninety-five per centum (95%) of all the interest received on the school funds of the state, and ninety-five per centum (95%) of all rents received from the leasing of school lands and of all other income from the public school funds shall be apportioned annually to the several school districts of the state in proportion to the number of children and youths between the ages of six (6) and twenty-one (21) residing therein respectively, but no district shall be entitled to such distributive share that does not maintain a public free school for at least six months during the year for which such distribution is made. The remaining five per centum (5%) of all the interest received on the school funds of the state, and the remaining five per centum (5%) of all the rents received from the leasing of school lands and of all other income from the public school funds, shall annually be added to the public school funds of the state and become and forever remain an inseparable and inviolable part thereof.

Compiler's Comments  
1919 Amendment: This section is given as amended by chapter 149, Laws of 1919, approved at election of November 2, 1920.

Section 6. It shall be the duty of the legislative assembly to provide by law, or otherwise, sufficient means, in connection with the amount received from the general school fund, to maintain a public, free common school in each organized district in the state, for at least three months in each year.

Sec. 7. The public free schools of the state shall be open to all children and youth between the ages of six and twenty-one years.

Sec. 8. Neither the legislative assembly, nor any county, city, town, or school district, or other public corporations, shall ever make directly or

Section 4. Individual dignity. The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.

1972

Indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of land or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university, or other literary, scientific institution, controlled in whole or in part by any church, sect or denomination whatever.

Sec. 9. No religious or partisan test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as teacher or student; nor shall attendance be required at any religious service whatever, nor shall any sectarian tenets be taught in any public educational institution of the state; nor shall any person be debarred admission to any of the collegiate departments of the university on account of sex.

Section 10. The legislative assembly shall provide that all elections for school district officers shall be separate from those elections at which state or county officers are voted for.

Sec. 11. The general control and supervision of the state university and the various other state educational institutions shall be vested in a state board of education, whose powers and duties shall be prescribed and regulated by law. The said board shall consist of eleven members, the governor, state superintendent of public instruction, and attorney general, being members ex-officio; the other eight members thereof shall be appointed by the governor, subject to the confirmation of the senate, under the regulations and restrictions to be provided by law.

Sec. 12. The funds of the state university 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 prescribed by law, and shall be guaranteed by the state against loss or diversion. The interest of said invested funds, together with the rents from leased lands or properties shall be devoted to the maintenance and perpetuation of these respective institutions.

ARTICLE XII  
REVENUE AND TAXATION

Section 1. The necessary revenue for the support and maintenance of the state shall be provided by the legislative assembly, which shall levy a uniform rate of assessment and taxation, and shall prescribe such regulations as shall secure that valuation for taxation of all property, except that specially provided for in this article. The legislative assembly may also impose a license tax, both upon persons and upon corporations doing business in the state.

Sec. 1a. The legislative assembly may levy and collect taxes upon incomes of persons, firms and corporations for the purpose of replacing property taxes. These income taxes may be graduated and progressive and shall be distributed to the public schools and to the state government.

Compiler's Comments  
1933 Amendment: This section was enacted by chapter 63, Laws of 1933, approved by the people at the general election of November 6, 1934.

Sec. 1b. No monies paid into the state treasury which are derived from fees, excises or license taxes relating to registration, operation or use of



# Schools consider court challenge

By KEVIN McRAE  
Gazette Helena Bureau

HELENA — Several of the state's smaller school districts say the school funding plan adopted by the 1989 Legislature denies their students educational opportunities guaranteed by the Montana Constitution.

A fledgling coalition of rural districts is preparing to challenge the system in court. If the 1991 Legislature doesn't increase the small schools' share of state funding so they can offer the variety of programs found in larger towns.

Charles Erdmann, a Helena attorney who will lobby for the group this winter, estimated that it could cost \$500,000 to fund such a lawsuit. "Obviously, these types of suits are not filed at the drop of a hat," he said. The schools also intend to hire an attorney to study the constitutional issues and lay the groundwork for a lawsuit if the Legislature doesn't change the system.

Residents in several rural areas say their taxes increase while their school districts' share of state money declines, Erdmann said. The spending caps in the new funding system took away much of their ability to raise money for educational programs through locally voted tax levies, he said.

"We're not saying this means the state needs to find new money for the smaller schools," Erdmann said. "It just needs to be redistributed. This will be a big-vs.-little, rural-vs.-urban fight."

School leaders from nearly 100 elementary and high school districts met in Lewistown Monday and endorsed the idea of forming the Montana Rural Education Association, he said. The size of the coalition's membership is not yet known because local school boards will spend the next several weeks deciding whether to join.

A steering committee was appointed made up of members from

“If everybody has to pay the same in terms of taxes, the educational opportunity should be the same, too.”

—Jim Foster  
coalition member

Chester, Harlem, Circle, Roundup, Choteau, Frenchtown, Medicine Lake, Victor, Fort Benton, Saco and Gardiner.

The 1989 Legislature passed the new school funding plan after a state district court and the state Supreme Court ruled that the old system was unconstitutional because it denied students equal educational opportunities.

The courts said the old system relied too heavily on local property taxes, and as a result, created too much disparity in the amount of money each district spent per student.

The Legislature increased the state's contribution to the school funding pot, boosting the statewide tax mill levy.

Chester school Superintendent Jim Foster, chairman of the rural school coalition's steering committee, said that "if everybody has to pay the same in terms of taxes, the educational opportunity should be the same, too."

Foster said examples of program disparity include cases in which larger schools offer a variety of foreign languages, home economics or business courses, while many small schools go without.

"How does that fit the mandate of equal opportunity?" Foster said. "All the kids have to compete in the

## Education lobby lacks goals, officials report

going to big schools.

Jim Foster, superintendent in Chester, said the new state-wide school finance formula, funnels half of the new tax money raised to large Class AA schools and 25 percent to Class A schools. Some 38 small districts get nothing from the tax, he said.

On Monday, representatives of 89 smaller school districts met in Lewistown and formed the Montana Rural Education Association to lobby to change the school-funding formula and get more money for small schools.

Some educators worry the effort will set off a war between small and big schools. Feaver said he agrees that small schools should be able to offer the same educational efforts as larger schools, but warns the effort may backfire. He said lawmakers may try to force consolidation on small districts to improve the educational opportunities for their students.

The education lobby was successful during the last legislative session in getting more money into education.

But now, many small schools are upset so much of the money is same melting pot when they go to college or wherever they go down the road.

The rural schools are the second group to wield the threat of a lawsuit before the start of this winter's legislative session.

Pat Melby, a Helena attorney and lobbyist for the school districts that successfully challenged the old funding system, said earlier this month that his group would file an

HELENA (AP) — The education coalition, an effective lobbying force in the past, is in disarray heading into the 1991 legislative session.

"The education community is not pointed cohesively toward a common goal. And I'm greatly concerned about that," said Great Falls Superintendent Larry Williams.

"All the pre-Legislature talk is pretty grim," said Eric Feaver, president of the Montana Education Association. "Clearly we're in for a period of upheaval."

But Nancy Keenan, the state school superintendent, said factions are still talking and trying to work out differences.

"If we stop talking, then I see the coalition breaking down," said Keenan.

The education lobby was successful during the last legislative session in getting more money into education.

But now, many small schools are upset so much of the money is

## New schools to be costly, study says

HELENA (AP) — State efforts to equalize the financing of school construction will be costly because much of the need is in districts least able to raise the money locally, a recent legislative study concludes.

Four out of every 10 Montana school districts will have to construct or remodel buildings in the next five years and the price tag could be \$177 million, according to the report by the fiscal analyst's office.

The study, which also shows that nearly one out of five school buildings is inadequate, was prepared for a committee that is considering additional changes in the school-financing laws for the 1991 session.

Lawmakers last year adopted a new system that equalizes most funding by replacing money generated through local taxes with state revenue. But the Legislature did not take action on several smaller budget items for schools — transportation and capital construction.

The Oversight Committee on School Funding Implementation was directed to study possible ways of equalizing those costs, an issue that is certain to come before the 1991 Legislature.

A survey of 443 or 80 percent of Montana's school districts indicates the most severe problems with existing buildings are in those districts with the lowest property tax value per student.

About half the districts that complained of having poor or inadequate facilities were among the poorest of the wealthiest districts. Only 8 percent of the wealthiest districts reported buildings that are inadequate.

Moreover, more than a third of the building or remodeling projects planned by the 1985-86 school year are concentrated among the poorest districts, the study shows.

"It appears the wealthiest districts may have been more able to replace and remodel buildings and, therefore, show less need currently," wrote Curt Nichols, deputy fiscal analyst.

"The concentration of deficient buildings and classrooms in relatively poor districts indicates that costs of equalizing capital construction may be high," he said.

The survey, which covered 595 buildings, found that just over half the facilities were built between 1950 and 1980. The remainder were constructed throughout eight other decades, with few structures erected before the turn of the century.

The responding districts said 13 percent of their buildings are in such poor condition that they should be abandoned. Two-thirds of the facilities were considered adequate and a fifth were rated in excellent condition.

## School finance law axed again

AUSTIN, Texas (AP) — The Texas Supreme Court ruled Tuesday that the latest version of the state's public school finance law is unconstitutional because it doesn't solve the problem of unequal funding of rich and poor schools.

The new law was pushed after four special legislative sessions in 1990, after the state Supreme Court in 1989 agreed with property-poor school districts that challenged the old finance system as inequitable.

Texas schools are funded by state and federal aid and local property taxes. State District Judge Scott McCown ruled in September in a suit brought by a poor district that financial inequity

Independent Record, Helena, Mont., Wednesday, January 23, 1991—7A

3-16-91  
SB  
022

EXHIBIT #4  
DATE 3-6-91  
HB 449

Amendments to House Bill No. 449  
1st Reading Copy

Requested by House Committee on Education

Prepared by Andrea Merrill  
March 6, 1991

1. Page 1, line 15.  
Following: "of the"  
Insert: "approved"

2. Page 1, line 16.  
Following: "20-9-321."  
Insert: "This appropriation is in addition to any base  
appropriation for funding the special education costs of  
school districts for the biennium ending June 30, 1993."



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