

CONSTITUTIONAL AMENDMENT

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House BILL NO. 228

INTRODUCED BY

*Samir Harrison Raj*

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IV, SECTION 8, ARTICLE VI, SECTIONS 1, 2, 3, 4, 6, AND 7, AND ARTICLE X, SECTIONS 4 AND 9, OF THE MONTANA CONSTITUTION TO REPLACE THE STATE BOARD OF EDUCATION, THE BOARD OF PUBLIC EDUCATION, AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION WITH A DEPARTMENT OF EDUCATION AND A STATE EDUCATION ADVISORY COMMISSION; REMOVING THE SUPERINTENDENT OF PUBLIC INSTRUCTION AS A MEMBER OF THE BOARD OF LAND COMMISSIONERS; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Article IV, section 8, of The Constitution of the State of Montana is amended to read:

**"Section 8. Limitation on terms of office.** (1) The secretary of state or other authorized official shall not certify a candidate's nomination or election to, or print or cause to be printed on any ballot the name of a candidate for, one of the following offices if, at the end of the current term of that office, the candidate will have served in that office or had he not resigned or been recalled would have served in that office:

(a) 8 or more years in any 16-year period as governor, lieutenant governor, secretary of state, state auditor, or attorney general, ~~or superintendent of public instruction;~~

(b) 8 or more years in any 16-year period as a state representative;

(c) 8 or more years in any 16-year period as a state senator;

(d) 6 or more years in any 12-year period as a member of the U.S. house of representatives; and

(e) 12 or more years in any 24-year period as a member of the U.S. senate.

(2) When computing time served for purposes of subsection (1), the provisions of subsection (1) do not apply to time served in terms that end during or prior to January 1993.

(3) Nothing contained herein shall preclude an otherwise qualified candidate from being certified as nominated or elected by virtue of write-in votes cast for said candidate."

1           **Section 2.** Article VI, section 1, of The Constitution of the State of Montana is amended to read:

2           **"Section 1. Officers.** (1) The executive branch includes a governor, lieutenant governor, secretary  
3 of state, attorney general, ~~superintendent of public instruction,~~ and auditor.

4           (2) Each holds office for a term of four years which begins on the first Monday of January next  
5 succeeding election, and until a successor is elected and qualified.

6           (3) Each shall reside at the seat of government, there keep the public records of his office, and  
7 perform such other duties as are provided in this constitution and by law."

8

9           **Section 3.** Article VI, section 2, of The Constitution of the State of Montana is amended to read:

10           **"Section 2. Election.** (1) The governor, lieutenant governor, secretary of state, attorney general,  
11 ~~superintendent of public instruction,~~ and auditor shall be elected by the qualified electors at a general  
12 election provided by law.

13           (2) Each candidate for governor shall file jointly with a candidate for lieutenant governor in primary  
14 elections, or so otherwise comply with nomination procedures provided by law that the offices of governor  
15 and lieutenant governor are voted upon together in primary and general elections."

16

17           **Section 4.** Article VI, section 3, of The Constitution of the State of Montana is amended to read:

18           **"Section 3. Qualifications.** (1) No person shall be eligible to the office of governor, lieutenant  
19 governor, secretary of state, attorney general, ~~superintendent of public instruction,~~ or auditor unless he is  
20 25 years of age or older at the time of his election. In addition, each shall be a citizen of the United States  
21 who has resided within the state two years next preceding his election.

22           (2) Any person with the foregoing qualifications is eligible to the office of attorney general if an  
23 attorney in good standing admitted to practice law in Montana who has engaged in the active practice  
24 thereof for at least five years before election.

25           ~~(3) The superintendent of public instruction shall have such educational qualifications as are~~  
26 ~~provided by law."~~

27

28           **Section 5.** Article VI, section 4, of The Constitution of the State of Montana is amended to read:

29           **"Section 4. Duties.** (1) The executive power is vested in the governor who shall see that the laws  
30 are faithfully executed. He shall have such other duties as are provided in this constitution and by law.

1 (2) The lieutenant governor shall perform the duties provided by law and those delegated to him  
2 by the governor. No power specifically vested in the governor by this constitution may be delegated to the  
3 lieutenant governor.

4 (3) The secretary of state shall maintain official records of the executive branch and of the acts  
5 of the legislature, as provided by law. He shall keep the great seal of the state of Montana and perform any  
6 other duties provided by law.

7 (4) The attorney general is the legal officer of the state and shall have the duties and powers  
8 provided by law.

9 (5) The ~~superintendent of public instruction and the~~ auditor shall have such duties as are provided  
10 by law."

11  
12 **Section 6.** Article VI, section 6, of The Constitution of the State of Montana is amended to read:

13 **"Section 6. Vacancy in office.** (1) If the office of lieutenant governor becomes vacant by his  
14 succession to the office of governor, or by his death, resignation, or disability as determined by law, the  
15 governor shall appoint a qualified person to serve in that office for the remainder of the term. If both the  
16 elected governor and the elected lieutenant governor become unable to serve in the office of governor,  
17 succession to the respective offices shall be as provided by law for the period until the next general  
18 election. Then, a governor and lieutenant governor shall be elected to fill the remainder of the original term.

19 (2) If the office of secretary of state, attorney general, or auditor, ~~or superintendent of public~~  
20 ~~instruction~~ becomes vacant by death, resignation, or disability as determined by law, the governor shall  
21 appoint a qualified person to serve in that office until the next general election and until a successor is  
22 elected and qualified. The person elected to fill a vacancy shall hold the office until the expiration of the  
23 term for which his predecessor was elected."

24  
25 **Section 7.** Article VI, section 7, of The Constitution of the State of Montana is amended to read:

26 **"Section 7. 20 departments.** All executive and administrative offices, boards, bureaus,  
27 commissions, agencies and instrumentalities of the executive branch (except for the office of governor,  
28 lieutenant governor, secretary of state, attorney general, ~~superintendent of public instruction,~~ and auditor)  
29 and their respective functions, powers, and duties, shall be allocated by law among not more than 20  
30 principal departments so as to provide an orderly arrangement in the administrative organization of state

1 government. Temporary commissions may be established by law and need not be allocated within a  
2 department."

3

4 **Section 8.** Article X, section 4, of The Constitution of the State of Montana is amended to read:

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

10

11 **Section 9.** Article X, section 9, of The Constitution of the State of Montana is amended to read:

12 **"Section 9. Boards Department of education -- state education advisory commission -- board of**  
13 **regents.** (1) There is a ~~state board of education composed of the board of regents of higher education and~~  
14 ~~the board of public education. It is responsible for long range planning, and for coordinating and evaluating~~  
15 ~~policies and programs for the state's educational systems. It shall submit unified budget requests~~  
16 ~~department of education, with a director appointed by the governor. The department and the director shall~~  
17 ~~have duties assigned by law.~~

18 (2) There is a state education advisory commission, consisting of eight members appointed to  
19 staggered, 7-year terms by the governor. The commission shall serve only in an advisory capacity to the  
20 director of the department of education. A ~~Except in the case of a tie vote at any meeting may be broken~~  
21 ~~by of the commission, the governor, who~~ director shall serve as the non-voting presiding officer and is an  
22 ~~ex officio member of each component board~~ the commission.

23 ~~(2)(3)~~ (a) The government and control of the Montana university system is vested in a board of  
24 regents of higher education which shall have full power, responsibility, and authority to supervise,  
25 coordinate, manage and control the Montana university system and shall supervise and coordinate other  
26 public educational institutions assigned by law.

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

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

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

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

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

9  
10 **NEW SECTION. Section 10. Effective date -- applicability.** If approved by the electorate, this  
11 amendment is effective on passage and approval and applies to terms of office or appointments on or after  
12 January 1, 2001.

13  
14 **NEW SECTION. Section 11. Submission to electorate.** This amendment shall be submitted to the  
15 qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot  
16 the full title of this act and the following:

17 [] FOR replacing the boards of education, public education, and the superintendent of public  
18 instruction with a department of education and a state education advisory commission.

19 [] AGAINST replacing the boards of education, public education, and the superintendent of  
20 public instruction with a department of education and a state education advisory  
21 commission.

22 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0228, as introduced


DESCRIPTION OF PROPOSED LEGISLATION:

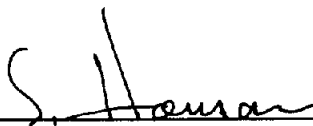
An act submitting the qualified electors of Montana an amendment to article IV, section 8, article VI, sections 1,2,3,4,6 and 7, and article X, sections 4 and 9, of the Montana Constitution to replace the state board of education, the board of public education, and the superintendent of public instruction with a department of education and a state education advisory commission; removing the superintendent of public instruction as a member of the board of land commissions;

ASSUMPTIONS:

1. If the electors of the State of Montana approve the constitutional initiative proposed in House Bill 228, the office of the Superintendent of Public Instruction will be eliminated as of January 1, 2001.
2. The elected official will be replaced by a director of a state department of education and an assistant director of K-12 education.
3. There will no longer a chief state school officer serving on the state land board.

FISCAL IMPACT: No impact for the 1997 biennium. The current budget for staff in the Office of Public Instruction is \$4.8 million per year.

  
DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

  
S. HANSON, PRIMARY SPONSOR      DATE

Fiscal Note for HB0228, as introduced

**HB 228**

## CONSTITUTIONAL AMENDMENT

HOUSE BILL NO. 228

INTRODUCED BY S. HANSON, GAGE

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ~~ARTICLE IV, SECTION 8, ARTICLE VI, SECTIONS 1, 2, 3, 4, 6, AND 7, AND ARTICLE X, SECTIONS 4 AND SECTION 9,~~ OF THE MONTANA CONSTITUTION TO REPLACE THE STATE BOARD OF EDUCATION, AND THE BOARD OF PUBLIC EDUCATION, ~~AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION~~ WITH A DEPARTMENT OF EDUCATION AND A STATE EDUCATION ADVISORY COMMISSION; ~~REMOVING THE SUPERINTENDENT OF PUBLIC INSTRUCTION AS A MEMBER OF THE BOARD OF LAND COMMISSIONERS;~~ PROVIDING TRANSITIONAL INSTRUCTIONS; AND PROVIDING A ~~DELAYED~~ AN IMMEDIATE EFFECTIVE DATE ~~AND AN APPLICABILITY DATE."~~

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

~~Section 1. Article IV, section 8, of The Constitution of the State of Montana is amended to read:~~

~~"Section 8. Limitation on terms of office. (1) The secretary of state or other authorized official shall not certify a candidate's nomination or election to, or print or cause to be printed on any ballot the name of a candidate for, one of the following offices if, at the end of the current term of that office, the candidate will have served in that office or had he not resigned or been recalled would have served in that office:~~

~~(a) 8 or more years in any 16 year period as governor, lieutenant governor, secretary of state, state auditor, or attorney general, or superintendent of public instruction;~~

~~(b) 8 or more years in any 16 year period as a state representative;~~

~~(c) 8 or more years in any 16 year period as a state senator;~~

~~(d) 6 or more years in any 12 year period as a member of the U.S. house of representatives; and~~

~~(e) 12 or more years in any 24 year period as a member of the U.S. senate.~~

~~(2) When computing time served for purposes of subsection (1), the provisions of subsection (1) do not apply to time served in terms that end during or prior to January 1993.~~

~~(3) Nothing contained herein shall preclude an otherwise qualified candidate from being certified as nominated or elected by virtue of write in votes cast for said candidate."~~

1           ~~Section 2.~~ Article VI, section 1, of The Constitution of the State of Montana is amended to read:

2           ~~"Section 1. Officers.~~ (1) The executive branch includes a governor, lieutenant governor, secretary  
3 of state, attorney general, superintendent of public instruction, and auditor.

4           ~~(2) Each holds office for a term of four years which begins on the first Monday of January next~~  
5 ~~succeeding election, and until a successor is elected and qualified.~~

6           ~~(3) Each shall reside at the seat of government, there keep the public records of his office, and~~  
7 ~~perform such other duties as are provided in this constitution and by law."~~

8  
9           ~~Section 3.~~ Article VI, section 2, of The Constitution of the State of Montana is amended to read:

10           ~~"Section 2. Election.~~ (1) The governor, lieutenant governor, secretary of state, attorney general,  
11 superintendent of public instruction, and auditor shall be elected by the qualified electors at a general  
12 election provided by law.

13           ~~(2) Each candidate for governor shall file jointly with a candidate for lieutenant governor in primary~~  
14 ~~elections, or so otherwise comply with nomination procedures provided by law that the offices of governor~~  
15 ~~and lieutenant governor are voted upon together in primary and general elections."~~

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17           ~~Section 4.~~ Article VI, section 3, of The Constitution of the State of Montana is amended to read:

18           ~~"Section 3. Qualifications.~~ (1) No person shall be eligible to the office of governor, lieutenant  
19 governor, secretary of state, attorney general, superintendent of public instruction, or auditor unless he is  
20 25 years of age or older at the time of his election. In addition, each shall be a citizen of the United States  
21 who has resided within the state two years next preceding his election.

22           ~~(2) Any person with the foregoing qualifications is eligible to the office of attorney general if an~~  
23 ~~attorney in good standing admitted to practice law in Montana who has engaged in the active practice~~  
24 ~~thereof for at least five years before election.~~

25           ~~(3) The superintendent of public instruction shall have such educational qualifications as are~~  
26 ~~provided by law."~~

27  
28           ~~Section 5.~~ Article VI, section 4, of The Constitution of the State of Montana is amended to read:

29           ~~"Section 4. Duties.~~ (1) The executive power is vested in the governor who shall see that the laws  
30 are faithfully executed. He shall have such other duties as are provided in this constitution and by law.



1           ~~(2) The lieutenant governor shall perform the duties provided by law and those delegated to him~~  
2 ~~by the governor. No power specifically vested in the governor by this constitution may be delegated to the~~  
3 ~~lieutenant governor.~~

4           ~~(3) The secretary of state shall maintain official records of the executive branch and of the acts~~  
5 ~~of the legislature, as provided by law. He shall keep the great seal of the state of Montana and perform any~~  
6 ~~other duties provided by law.~~

7           ~~(4) The attorney general is the legal officer of the state and shall have the duties and powers~~  
8 ~~provided by law.~~

9           ~~(5) The superintendent of public instruction and the auditor shall have such duties as are provided~~  
10 ~~by law."~~

11  
12           ~~**Section 6.** Article VI, section 6, of The Constitution of the State of Montana is amended to read:~~

13           ~~"**Section 6. Vacancy in office.** (1) If the office of lieutenant governor becomes vacant by his~~  
14 ~~succession to the office of governor, or by his death, resignation, or disability as determined by law, the~~  
15 ~~governor shall appoint a qualified person to serve in that office for the remainder of the term. If both the~~  
16 ~~elected governor and the elected lieutenant governor become unable to serve in the office of governor,~~  
17 ~~succession to the respective offices shall be as provided by law for the period until the next general~~  
18 ~~election. Then, a governor and lieutenant governor shall be elected to fill the remainder of the original term.~~

19           ~~(2) If the office of secretary of state, attorney general, or auditor, or superintendent of public~~  
20 ~~instruction becomes vacant by death, resignation, or disability as determined by law, the governor shall~~  
21 ~~appoint a qualified person to serve in that office until the next general election and until a successor is~~  
22 ~~elected and qualified. The person elected to fill a vacancy shall hold the office until the expiration of the~~  
23 ~~term for which his predecessor was elected."~~

24  
25           ~~**Section 7.** Article VI, section 7, of The Constitution of the State of Montana is amended to read:~~

26           ~~"**Section 7. 20 departments.** All executive and administrative offices, boards, bureaus,~~  
27 ~~commissions, agencies and instrumentalities of the executive branch (except for the office of governor,~~  
28 ~~lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor)~~  
29 ~~and their respective functions, powers, and duties, shall be allocated by law among not more than 20~~  
30 ~~principal departments so as to provide an orderly arrangement in the administrative organization of state~~

1 government. Temporary commissions may be established by law and need not be allocated within a  
2 department."

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4 ~~Section 8.~~ Article X, section 4, of The Constitution of the State of Montana is amended to read:

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

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11 **Section 1.** Article X, section 9, of The Constitution of the State of Montana is amended to read:

12 **"Section 9. Boards Department of education -- state education advisory commission -- board of**  
13 **regents.** (1) There is a state board of education composed of the board of regents of higher education and  
14 the board of public education. It is responsible for long range planning, and for coordinating and evaluating  
15 policies and programs for the state's educational systems. It shall submit unified budget requests  
16 department of education, with a director appointed by the governor. The department and the director shall  
17 have duties assigned by law.

18 (2) There is a state education advisory commission, consisting of eight members appointed BY THE  
19 GOVERNOR AND CONFIRMED BY THE SENATE to staggered, 7 year terms by the governor, AS PROVIDED  
20 BY LAW. The commission shall serve only in an advisory capacity to the director of the department of  
21 education HAVE DUTIES ASSIGNED BY LAW. A Except in the case of a tie vote at any meeting may be  
22 broken by of the commission, the governor, who director shall serve as the non-voting presiding officer  
23 and is an ex officio member of each component board the commission.

24 ~~(2)(3)~~ (a) The government and control of the Montana university system is vested in a board of  
25 regents of higher education which shall have full power, responsibility, and authority to supervise,  
26 coordinate, manage and control the Montana university system and shall supervise and coordinate other  
27 public educational institutions assigned by law.

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

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

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

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

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

10  
11 NEW SECTION. Section 2. Effective date —applicability. If approved by the electorate, this  
12 amendment is effective on passage and approval and ~~applies to terms of office or appointments on or after~~  
13 ~~January 1, 2001.~~

14  
15 NEW SECTION. SECTION 3. TRANSITION. UPON PASSAGE AND APPROVAL, THE GOVERNOR  
16 MAY CREATE A DEPARTMENT OF EDUCATION AS PROVIDED IN ARTICLE X, SECTION 9(1). THE  
17 DEPARTMENT MAY EXERCISE STATUTORILY ASSIGNED DUTIES. THE STATE BOARD OF EDUCATION  
18 AND THE BOARD OF PUBLIC EDUCATION SHALL CONTINUE TO PERFORM DUTIES THAT WERE  
19 CONSTITUTIONALLY ASSIGNED UNTIL JANUARY 1, 2001. THE TERMS OF OFFICE AND APPOINTMENTS  
20 TO THESE BOARDS REMAIN IN EFFECT UNTIL JANUARY 1, 2001.

21  
22 NEW SECTION. Section 4. Submission to electorate. This amendment shall be submitted to the  
23 qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot  
24 the full title of this act and the following:

25 [ ] FOR replacing the boards of education; AND public education; ~~and the superintendent of~~  
26 ~~public instruction~~ with a department of education and a state education advisory  
27 commission.

28 [ ] AGAINST replacing the boards of education; AND public education; ~~and the superintendent~~  
29 ~~of public instruction~~ with a department of education and a state education advisory  
30 commission.

-END-

**CONSTITUTIONAL AMENDMENT**

HOUSE BILL NO. 228

INTRODUCED BY S. HANSON, GAGE

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ~~ARTICLE IV, SECTION 8, ARTICLE VI, SECTIONS 1, 2, 3, 4, 6, AND 7, AND ARTICLE X, SECTIONS 4 AND SECTION 9,~~ OF THE MONTANA CONSTITUTION TO REPLACE THE STATE BOARD OF EDUCATION, AND THE BOARD OF PUBLIC EDUCATION, ~~AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION~~ WITH A DEPARTMENT OF EDUCATION AND A STATE EDUCATION ADVISORY COMMISSION; ~~REMOVING THE SUPERINTENDENT OF PUBLIC INSTRUCTION AS A MEMBER OF THE BOARD OF LAND COMMISSIONERS;~~ PROVIDING TRANSITIONAL INSTRUCTIONS; AND PROVIDING A DELAYED AN IMMEDIATE EFFECTIVE DATE ~~AND AN APPLICABILITY DATE."~~

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~~"Section 8. Limitation on terms of office. (1) The secretary of state or other authorized official shall not certify a candidate's nomination or election to, or print or cause to be printed on any ballot the name of a candidate for, one of the following offices if, at the end of the current term of that office, the candidate will have served in that office or had he not resigned or been recalled would have served in that office:~~

~~(a) 8 or more years in any 16 year period as governor, lieutenant governor, secretary of state, state auditor, or attorney general, or superintendent of public instruction;~~

~~(b) 8 or more years in any 16 year period as a state representative;~~

~~(c) 8 or more years in any 16 year period as a state senator;~~

~~(d) 6 or more years in any 12 year period as a member of the U.S. house of representatives; and~~

~~(e) 12 or more years in any 24 year period as a member of the U.S. senate.~~

~~(2) When computing time served for purposes of subsection (1), the provisions of subsection (1) do not apply to time served in terms that end during or prior to January 1993.~~

~~(3) Nothing contained herein shall preclude an otherwise qualified candidate from being certified as nominated or elected by virtue of write in votes cast for said candidate."~~

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2 ~~"Section 1. Officers. (1) The executive branch includes a governor, lieutenant governor, secretary~~  
3 ~~of state, attorney general, superintendent of public instruction, and auditor.~~

4 ~~(2) Each holds office for a term of four years which begins on the first Monday of January next~~  
5 ~~succeeding election, and until a successor is elected and qualified.~~

6 ~~(3) Each shall reside at the seat of government, there keep the public records of his office, and~~  
7 ~~perform such other duties as are provided in this constitution and by law."~~

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9 ~~Section 3. Article VI, section 2, of The Constitution of the State of Montana is amended to read:~~

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11 ~~superintendent of public instruction, and auditor shall be elected by the qualified electors at a general~~  
12 ~~election provided by law.~~

13 ~~(2) Each candidate for governor shall file jointly with a candidate for lieutenant governor in primary~~  
14 ~~elections, or so otherwise comply with nomination procedures provided by law that the offices of governor~~  
15 ~~and lieutenant governor are voted upon together in primary and general elections."~~

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17 ~~Section 4. Article VI, section 3, of The Constitution of the State of Montana is amended to read:~~

18 ~~"Section 3. Qualifications. (1) No person shall be eligible to the office of governor, lieutenant~~  
19 ~~governor, secretary of state, attorney general, superintendent of public instruction, or auditor unless he is~~  
20 ~~25 years of age or older at the time of his election. In addition, each shall be a citizen of the United States~~  
21 ~~who has resided within the state two years next preceding his election.~~

22 ~~(2) Any person with the foregoing qualifications is eligible to the office of attorney general if an~~  
23 ~~attorney in good standing admitted to practice law in Montana who has engaged in the active practice~~  
24 ~~thereof for at least five years before election.~~

25 ~~(3) The superintendent of public instruction shall have such educational qualifications as are~~  
26 ~~provided by law."~~

27  
28 ~~Section 5. Article VI, section 4, of The Constitution of the State of Montana is amended to read:~~

29 ~~"Section 4. Duties. (1) The executive power is vested in the governor who shall see that the laws~~  
30 ~~are faithfully executed. He shall have such other duties as are provided in this constitution and by law.~~

1           ~~(2) The lieutenant governor shall perform the duties provided by law and those delegated to him~~  
 2 ~~by the governor. No power specifically vested in the governor by this constitution may be delegated to the~~  
 3 ~~lieutenant governor.~~

4           ~~(3) The secretary of state shall maintain official records of the executive branch and of the acts~~  
 5 ~~of the legislature, as provided by law. He shall keep the great seal of the state of Montana and perform any~~  
 6 ~~other duties provided by law.~~

7           ~~(4) The attorney general is the legal officer of the state and shall have the duties and powers~~  
 8 ~~provided by law.~~

9           ~~(5) The superintendent of public instruction and the auditor shall have such duties as are provided~~  
 10 ~~by law."~~

11  
 12           ~~Section 6. Article VI, section 6, of The Constitution of the State of Montana is amended to read:~~

13           ~~"Section 6. Vacancy in office. (1) If the office of lieutenant governor becomes vacant by his~~  
 14 ~~succession to the office of governor, or by his death, resignation, or disability as determined by law, the~~  
 15 ~~governor shall appoint a qualified person to serve in that office for the remainder of the term. If both the~~  
 16 ~~elected governor and the elected lieutenant governor become unable to serve in the office of governor,~~  
 17 ~~succession to the respective offices shall be as provided by law for the period until the next general~~  
 18 ~~election. Then, a governor and lieutenant governor shall be elected to fill the remainder of the original term.~~

19           ~~(2) If the office of secretary of state, attorney general, or auditor, or superintendent of public~~  
 20 ~~instruction becomes vacant by death, resignation, or disability as determined by law, the governor shall~~  
 21 ~~appoint a qualified person to serve in that office until the next general election and until a successor is~~  
 22 ~~elected and qualified. The person elected to fill a vacancy shall hold the office until the expiration of the~~  
 23 ~~term for which his predecessor was elected."~~

24  
 25           ~~Section 7. Article VI, section 7, of The Constitution of the State of Montana is amended to read:~~

26           ~~"Section 7. 20 departments. All executive and administrative offices, boards, bureaus,~~  
 27 ~~commissions, agencies and instrumentalities of the executive branch (except for the office of governor,~~  
 28 ~~lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor)~~  
 29 ~~and their respective functions, powers, and duties, shall be allocated by law among not more than 20~~  
 30 ~~principal departments so as to provide an orderly arrangement in the administrative organization of state~~

1 ~~government. Temporary commissions may be established by law and need not be allocated within a~~  
 2 ~~department."~~

3

4 ~~**Section 8.** Article X, section 4, of The Constitution of the State of Montana is amended to read:~~

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

10

11 ~~**Section 1.** Article X, section 9, of The Constitution of the State of Montana is amended to read:~~

12 ~~"**Section 9. Boards Department of education -- state education advisory commission -- board of**~~  
 13 ~~**regents.** (1) There is a ~~state board of education composed of the board of regents of higher education and~~~~  
 14 ~~~~the board of public education. It is responsible for long range planning, and for coordinating and evaluating~~~~  
 15 ~~~~policies and programs for the state's educational systems. It shall submit unified budget requests~~~~  
 16 ~~~~department of education, with a director appointed by the governor. The department and the director shall~~~~  
 17 ~~~~have duties assigned by law.~~~~

18 ~~~~(2) There is a state education advisory commission, consisting of eight members appointed BY THE~~~~  
 19 ~~~~GOVERNOR AND CONFIRMED BY THE SENATE to staggered, 7 year terms by the governor, AS PROVIDED~~~~  
 20 ~~~~BY LAW. The commission shall serve only in an advisory capacity to the director of the department of~~~~  
 21 ~~~~education HAVE DUTIES ASSIGNED BY LAW. A Except in the case of a tie vote at any meeting may be~~~~  
 22 ~~~~broken by of the commission, the governor, who director shall serve as the non-voting presiding officer~~~~  
 23 ~~~~and is an ex officio member of each component board the commission.~~~~

24 ~~(2)(3)~~ (a) The government and control of the Montana university system is vested in a board of  
 25 regents of higher education which shall have full power, responsibility, and authority to supervise,  
 26 coordinate, manage and control the Montana university system and shall supervise and coordinate other  
 27 public educational institutions assigned by law.

28 (b) The board consists of seven members appointed by the governor, and confirmed by the senate,  
 29 to overlapping terms, as provided by law. The governor ~~and superintendent of public instruction are is an~~  
 30 ~~AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION ARE~~ ex officio non-voting members ~~member~~

1 MEMBERS of the board.

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

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

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

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

11

12 NEW SECTION. Section 2. Effective date —applicability. If approved by the electorate, this  
13 amendment is effective on passage and approval and ~~applies to terms of office or appointments on or after~~  
14 ~~January 1, 2001.~~

15

16 NEW SECTION. SECTION 3. TRANSITION. UPON PASSAGE AND APPROVAL, THE GOVERNOR  
17 MAY CREATE A DEPARTMENT OF EDUCATION AS PROVIDED IN ARTICLE X, SECTION 9(1). THE  
18 DEPARTMENT MAY EXERCISE STATUTORILY ASSIGNED DUTIES. THE STATE BOARD OF EDUCATION  
19 AND THE BOARD OF PUBLIC EDUCATION SHALL CONTINUE TO PERFORM DUTIES THAT WERE  
20 CONSTITUTIONALLY ASSIGNED UNTIL JANUARY 1, 2001. THE TERMS OF OFFICE AND APPOINTMENTS  
21 TO THESE BOARDS REMAIN IN EFFECT UNTIL JANUARY 1, 2001.

22

23 NEW SECTION. Section 4. Submission to electorate. This amendment shall be submitted to the  
24 qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot  
25 the full title of this act and the following:

26 [ ] FOR replacing the boards of education, AND public education, ~~and the superintendent of~~  
27 ~~public instruction~~ with a department of education and a state education advisory  
28 commission.

29 [ ] AGAINST replacing the boards of education, AND public education, ~~and the superintendent~~  
30 ~~of public instruction~~ with a department of education and a state education advisory



1 commission.

2 -END-