

CONSTITUTIONAL AMENDMENT

House BILL NO. 229

INTRODUCED BY Samuel House - Keith Forrest - Julian

BY REQUEST OF THE GOVERNOR

1
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3
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN
6 AMENDMENT TO ARTICLE X, SECTION 9, OF THE MONTANA CONSTITUTION TO REPLACE THE BOARD
7 OF EDUCATION, THE BOARD OF REGENTS, AND THE COMMISSIONER OF HIGHER EDUCATION WITH
8 THE DEPARTMENT OF EDUCATION AND A STATE EDUCATION ADVISORY COMMISSION; AND
9 PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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

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

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

1 ~~officio non voting 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."

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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.

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16 **NEW SECTION. Section 3. Submission to electorate.** This amendment shall be submitted to the
17 qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot
18 the full title of this act and the following:

19 FOR replacing the board of education, board of regents, and commissioner of higher
20 education with a department of education and a state education advisory commission.

21 AGAINST replacing the board of education, board of regents, and commissioner of higher
22 education with a department of education and a state education advisory commission.

23

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0229, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act submitting to the qualified electors of Montana an amendment to article X, section 9, of the Montana Constitution to replace the state board of education, the board of regents and the commissioner of higher education with a department of education and a state education advisory commission; and providing a delayed effective date and applicability date.

ASSUMPTIONS:

1. If the electors of the State of Montana approve the constitutional initiative proposed in House Bill 228, the Board of Regents and the office of the Commissioner of Higher Education will be eliminated upon passage and approval.
2. The Commissioner of Higher Education will be replaced by a director of a state department of education.
3. The actual transfer of staff, authority and budget responsibility will not take place until July 1, 1997 after the legislature considers the staffing requirements of the new department of education (see technical note.)

FISCAL IMPACT: No impact for the 1997 biennium. The current budget for staff in the Office of the Commissioner of Higher Education is \$2.6 million per year.

TECHNICAL NOTES: The effective date of the bill is "on passage and approval and applies to terms of office or appointments on or after January 1, 2001." The Regents appointments would be effective until January 1, 2001, but the Office of the Commissioner of Higher Education may be eliminated upon passage. Some clarification of the effective and applicability dates is necessary.

Dave Lewis 1-24-95

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

S. Hanson

S. HANSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0229, as introduced

HB 229

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3 BY REQUEST OF THE GOVERNOR
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17 ~~and evaluating policies and programs for the state's educational systems. It shall submit unified budget~~
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21 ~~staggered, 7-year terms by the governor. The commission shall serve only in an advisory capacity to the~~
22 ~~director of the department of education. A Except in the case of a tie vote at any meeting may be broken~~
23 ~~by of the commission, the governor, who director shall serve as the non-voting presiding officer and is an~~
24 ~~ex officio member of each component board the commission.~~

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26 ~~regents of higher education which shall have full power, responsibility, and authority to supervise,~~
27 ~~coordinate, manage and control the Montana university system and shall supervise and coordinate other~~
28 ~~public educational institutions assigned by law.~~

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

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2 ~~(e) 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.~~

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6 system and such other public educational institutions as may be assigned by law. Other duties of the board
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18 the full title of this act and the following:

19 (I) FOR replacing the board of education, board of regents, and commissioner of higher
20 education with a department of education and a state education advisory commission.

21 (II) AGAINST replacing the board of education, board of regents, and commissioner of higher
22 education with a department of education and a state education advisory commission.

23

-END-

CONSTITUTIONAL AMENDMENT

House BILL NO. 229
INTRODUCED BY Samuel Hansen - Smith Forrest Julian
BY REQUEST OF THE GOVERNOR

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

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

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23

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 13, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration HB 229 (third reading copy -- blue), respectfully report that HB 229 be amended as follows and as so amended be concurred in.

Signed: 

Senator Daryl Toews, Chair

That such amendments read:

1. Title, line 8.

Following: second "EDUCATION"

Strike: "ADVISORY"

Following: COMMISSION;

Insert: "PROVIDING TRANSITIONAL INSTRUCTIONS;" .

2. Title, line 9.

Following: "PROVIDING"

Strike: "A DELAYED"

Insert: "AN IMMEDIATE"

Following: first "DATE"

Strike: "AND AN APPLICABILITY DATE"

3. Page 1, line 14.

Following: "education"

Strike: "advisory"

4. Page 1, line 20.

Following: "education"

Strike: "advisory"

Following: "appointed"

Insert: "by the governor and confirmed by the senate"

5. Page 1, line 21.

Following: "staggered"

Strike: ", 7-year"

Following: "terms"

Strike: "by the governor"

Insert: ", as provided by law"

6. Page 1, lines 21 and 22.

Following: "shall" on line 21

Strike: remainder of line 21 through "education" on line 22

Insert: "have duties assigned by law"

7. Page 2, line 9.

Following: "governor"

HB 229

PV

Amd. Coord.

Sec. of Senate

Sen. John Hertel
Senator Carrying Bill

SENATE

371622SC.SPV

Strike: ", commissioner of higher education"

8. Page 2, line 12.

Strike: "-- applicability"

9. Page 2, lines 13 and 14.

Following: "approval" on line 13

Strike: remainder of line 13 through "2001" on line 14

10. Page 2, line 15.

Insert: "NEW SECTION. **Section 3. Transition.** Upon passage and approval, the governor may create a department of education and the state education commission as provided in Article X, section 9. The department and the commission may exercise statutorily assigned duties. The board of regents and the commissioner of higher education shall continue to perform duties that were constitutionally assigned until January 1, 2001. The terms of office and appointments to the board of regents remain in effect until January 1, 2001."

Renumber: subsequent section

11. Page 2, line 20.

Strike: "advisory"

12. Page 2, line 22.

Strike: "advisory"

-END-

CONSTITUTIONAL AMENDMENT

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2 INTRODUCED BY H. HANSON, HERTEL, FORRESTER, QUILICI
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22 GOVERNOR AND CONFIRMED BY THE SENATE to staggered, 7 year terms by the governor, AS PROVIDED
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15 amendment is effective on passage and approval ~~and applies to terms of office or appointments on or after~~
16 ~~January 1, 2001.~~

17
18 NEW SECTION. SECTION 3. TRANSITION. UPON PASSAGE AND APPROVAL, THE GOVERNOR
19 MAY CREATE A DEPARTMENT OF EDUCATION AND THE STATE EDUCATION COMMISSION AS
20 PROVIDED IN ARTICLE X, SECTION 9. THE DEPARTMENT AND THE COMMISSION MAY EXERCISE
21 STATUTORILY ASSIGNED DUTIES. THE BOARD OF REGENTS AND THE COMMISSIONER OF HIGHER
22 EDUCATION SHALL CONTINUE TO PERFORM DUTIES THAT WERE CONSTITUTIONALLY ASSIGNED UNTIL
23 JANUARY 1, 2001. THE TERMS OF OFFICE AND APPOINTMENTS TO THE BOARD OF REGENTS REMAIN
24 IN EFFECT UNTIL JANUARY 1, 2001.

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26 NEW SECTION. Section 4. Submission to electorate. This amendment shall be submitted to the
27 qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot
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30 education with a department of education and a state education ~~advisory~~ commission.

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3 -END-