

1 HOUSE BILL NO. 517
2 INTRODUCED BY M. HOPKINS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN
5 AMENDMENT TO ARTICLE X, SECTION 9, OF THE MONTANA CONSTITUTION TO PROVIDE DULY
6 ELECTED LAWMAKERS AUTHORITY TO ENACT LAWS TO PROTECT CONSTITUTIONAL RIGHTS OF
7 STUDENTS, FACULTY, AND STAFF OF THE MONTANA UNIVERSITY SYSTEM."

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9 WHEREAS, in Healy v. James, the Supreme Court of the United States held that "the vigilant
10 protection of constitutional freedoms is nowhere more vital than in the community of American schools"; and

11 WHEREAS, the current official text of the Montana Constitution has been interpreted by Montana
12 courts to forbid the state from enacting law to protect the constitutional rights of students, the public, faculty, or
13 staff; and

14 WHEREAS, the state must not violate the state or federal constitutional rights of enrolled or prospective
15 students, faculty, or staff; and

16 WHEREAS, the state must provide remedies for parties whose constitutional rights have been violated
17 by the Montana University System; and

18 WHEREAS, the state has a compelling interest in ensuring that the Montana University System
19 complies with the state and federal constitutions; and

20 WHEREAS, the state is responsible for paying damages awarded to parties who have proven in court
21 that their constitutional rights have been violated by the Montana University System; and

22 WHEREAS, the Montana Constitution's text should provide duly elected lawmakers the authority to
23 protect the state and federal constitutional rights of students, the public, faculty, or staff at the Montana
24 University System; and

25 WHEREAS, this amendment will ensure the state may enact legislation to require the Montana
26 University System to maintain policies and practices that protect the state and federal constitutional rights of
27 enrolled or prospective students, faculty, or staff, or from providing remedies for parties whose constitutional
28 rights have been violated by the Montana University System.

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

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

5 **"Section 9. Boards of education.** (1) There is a state board of education composed of the board of
6 regents of higher education and the board of public education. It is responsible for long-range planning, and for
7 coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified
8 budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each
9 component board.

10 (2) (a) ~~The~~ Except as provided in subsections (2)(e) and (2)(f), the government and control of the
11 Montana university system is vested in a board of regents of higher education which shall have full power,
12 responsibility, and authority to supervise, coordinate, manage and control the Montana university system and
13 shall supervise and coordinate other public educational institutions assigned by law.

14 (b) The board consists of seven members appointed by the governor, and confirmed by the
15 senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex
16 officio non-voting members of the board.

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

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

20 (e) The legislature may enact laws requiring the board of regents of higher education and units of
21 the Montana university system to adopt and maintain policies and practices that protect the rights and
22 associated civil liberties provided in the Montana constitution and those provided in the United States
23 constitution. In pursuit of these protections the state may provide judicial remedies.

24 (f) The board of regents of higher education and units of the Montana university system are not
25 exempt from laws of general applicability.

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

1 (b) The board consists of seven members appointed by the governor, and confirmed by the
2 senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state
3 superintendent of public instruction shall be ex officio non-voting members of the board."
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5 NEW SECTION. Section 2. Two-thirds vote required. Because [section 1] is a legislative proposal
6 to amend the constitution, Article XIV, section 8, of the Montana constitution requires an affirmative roll call vote
7 of two-thirds of all the members of the legislature, whether one or more bodies, for passage.
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9 NEW SECTION. Section 3. Effective date. [This act] is effective on approval by the electorate.
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11 NEW SECTION. Section 4. Submission to electorate. [This act] shall be submitted to the qualified
12 electors of Montana at the general election to be held in November 2024 by printing on the ballot the full title of
13 [this act] and the following:

14 YES on Constitutional Amendment ____.

15 NO on Constitutional Amendment ____.

16 END -