



The History of Flexibility in Montana School Finance and Law - From the Frontier to the Future

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+ The Key Players Sharing Authority and Obligations to the people

- The Montana Legislature and Governor are constitutionally empowered and obligated to provide funding for the basic system of free quality elementary and secondary public schools and to codify laws governing the public schools of Montana.
- The Montana Board of Public Education is constitutionally empowered and obligated to generally supervise Montana's public schools, an authority that they exercise through the accreditation standards.
- Locally elected trustees are constitutionally empowered and obligated to supervise and control the public schools in each community.

+ Progress on Flexibility - 1940

Montana was one of the pioneers in implementing supervised correspondence instruction in the late 1930's, doing so in recognition of the wide expanses of the state and the relative isolation of some pupils. The program was first implemented in 1938 and was centrally administered, then was later incorporated into law as a means of instruction authorized by school districts.

+ Progress on Flexibility - 1972

A Constitutional Goal of Personalized Learning: The constitutional framers of the new Montana Constitution established the peoples' goal for its system of public schools and a mechanism involving shared authority of the Legislature, elected school boards and the Board of Public Education. Provisions of note:

- Article X, Section 1(1): “It is the goal of the people to establish a system of education which will develop the full educational potential of each person.”
- Article X, Section 8: “The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.”
- Article X, Section 9: “There is a board of public education to exercise general supervision over the public school system.”
- Note: For detail regarding the intent of the framers in sharing authority between locally elected school boards and the Board of Public Education, see the comments of Delegate Heliker in his introduction of his motion to add Article X, Section 8 starting at page 2046 and continuing through page 2051 at the following link:
- <https://archive.org/details/montanaconstitut06mont/page/2046/mode/2up>

+ Progress on Flexibility - 1979

Early Childhood Education: Section 1, Chapter 334, Laws of 1979: The Montana Legislature first empowered school boards to provide early education (below general age thresholds) when exceptional circumstances are present that, in the discretion of the school board, merit waiver of ordinary age requirements. The Legislature enacted this change through the addition of (3) of 20-5-101 and reference to that provision in the definition of pupil:

(12) "Pupil" means any child who is 6 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but has not yet reached his 19th birthday and who is enrolled in a school established and maintained under the laws of the state of Montana at public expense.

20-5-101. Admittance of child to school. (1) The trustees shall assign and admit any child to a school in the district when the child is:

- 6 years of age or older on or before September 10 of the year in which the child is to enroll but has not yet reached his 19th birthday;
- a resident of the district; and
- otherwise qualified under the provisions of this title to be admitted to such school.

(2) The trustees of any district shall have the authority to assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

(3) The trustees may at their discretion assign and admit a child to a school in the district who is under 6 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit waiving the age provision of this section.

+ Progress on Flexibility - 1989

Equivalency and Course Waivers Authorized by Standards: The Board of Public Education first adopts the concept of a school board's power to customize a learning path for each student through the authority to waive courses otherwise required for graduation and to grant credit for courses where proficiency was gained through alternative means. See page 352 at the following link:

<https://courts.mt.gov/Portals/189/mars/1989/1989%20Issue%20No.%205.pdf>



Progress on Flexibility - 2001

Dual Credit Authorized: Dual Credit first authorized in Montana law in **House Bill 265** (Reps Tom Facey, Ken Peterson and Senator Dale Mahlum)



Progress on Flexibility - 2003

Funding Stability Initiated Through Inflationary Adjustments: Through cooperation among Senators Bob Story, Fred Thomas and MTSBA, section 20-9-326 (inflation on formula) was first added to the law in a conference committee on [Senate Bill 424](#) (Senator Nelson) on the last day of the 2003 Legislative Session. Beginning in biennia thereafter, inflation on the funding formula was incorporated in present law in a manner previously calculated for all other spending priorities.

+ Progress on Flexibility - 2005

Basic System of Free Quality Schools Defined: In its holding in *Columbia Falls v. State*, the Montana Supreme Court required that the state 1, define the basic system of free quality elementary and secondary schools set forth in Article X of the Montana Constitution, 2 study its costs and 3, implement a formula to ensure those costs. The Legislature responded by adopting a definition of the Basic System of Free Quality Schools in [Senate Bill 152](#) (Senator Ryan). That definition codified a shared vision, aligned with the Peoples' goal for a system of public schools that develops the full potential of each person and was added to the law as section 20-9-309.

+ Progress on Flexibility - 2005

Offsite Instruction Authorized: Offsite instruction was authorized for the first time for all students in [Senate Bill 224](#) (Senator Jesse Laslovich and Representative Bill Glaser). Previously, offsite instruction was authorized only for geographically isolated and homebound students.

+ Progress on Flexibility - 2005

Part Time Enrollment Authorized: **Senate Bill 359** (Senator Story) authorized part time enrollment for the first time (the previous law allowed only calculations at half and fulltime). This bill also mentioned self-paced learning for the first time in the law.

+ Progress on Flexibility - 2005

Increased Flexibility in the School Calendar: The requirement for instruction was converted away from a regimented school day/week/year toward aggregate hours of instruction with school district flexibility in determining how to meet those hours in [Senate Bill 170](#) (Senator Mangan). Before this change, both the standards of the Board of Public Education and state law required a regimented school day (6 hours), school week (Mondays through Fridays) and school year (180+7 pupil instruction related days). Any deviation from this calendar had consequences for both accreditation and funding.

+ Progress on Flexibility - 2005

New Aligned Funding Formula Elements Adopted: In the special session held in December of 2005, the Legislature adopted new funding formula elements tied to its new definition of quality in **Senate Bill 1**. This resulted in substantial increases in funding as well as new educationally relevant distributions based on quality educators, at risk pupils, Indian Education for all, and American Indian achievement gaps.

+ Progress on Flexibility - 2007

Continued learning opportunities for students who have graduated until age 19. **House Bill 195** (Representative Lange, Arntzen) authorized continued services to a student who has graduated but who has not yet reached the age of 19.

+ Progress on Flexibility - 2009

Montana Digital Academy Created: The Legislature adopted [House Bill 459](#) (Representative Grinde), creating the Montana Digital Academy. Funding was provided at \$1 million per year through House Bill 645 (which incorporated federal stimulus funding provided during the Great Recession). The intent was to provide expanded access to broader curriculum to students throughout the state.

+ Progress on Flexibility - 2009

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- Note: The Montana Digital Academy had originally been founded by the Montana School Boards Association and Montana Rural Education Association in August 2005 as the [Montana Schools E-Learning Consortium](#).

+ Progress on Flexibility - 2013

Individual Student Proficiency; Data at the Desktop to Adjust and Improve Instruction, a Focus on the Outcome of Learning, Including for Exceptional Children, and Property Tax Relief.

- **Senate Bill 175** (Senator Jones) brought about significant changes in law, to move emphasis toward the outcome of learning. These changes included a proficiency funding model, decoupled from seat time to meet the needs of both advanced and remedial learners, creation of a K-12 Data Task Force and a new funding stream to support development of data systems to improve and customize instruction. The bill also devoted revenues from natural resource development to K-12 property tax relief through the Natural Resource Development K-12 Funding Payment, and added the funding formula elements from the 2005 special session to the inflation calculation.
- **Senate Bill 191** (Senator Taylor Brown) solved the lingering competition between general and special education that had been previously identified in the courts as a deficiency in the formula. Through a combination of state and local support, the bill ensured adequate funding to provide special education to exceptional children without placing those costs in competition with general education programs.

+ Progress on Flexibility - 2015

New Predictability and Stability in Funding: Beginning in the 2015 Session and continuing since, the Legislature flipped the process for funding K-12 Public Education. In every session preceding 2015, K-12 public education funding was typically determined as one of the last acts in each legislative session. Following on the changing dynamics implemented through the passage of Senate Bill 175 in the 2013 Session, K-12 inflation funding was prioritized and passed in every session thereafter as one of the first substantive acts of the Legislature, signed into law prior to March 1 as follows:

- 2015 - [House Bill 27](#) (Representative Hayman) signed into law on February 27, 2015
- 2017 – [House Bill 191](#) (Representatives Berglee, Tschida) signed into law on February 23, 2017
- 2019 – [House Bill 159](#) (Representative Grubbs) signed into law on February 27, 2019
- 2021 – The release of [Governor Gianforte's budget](#) on January 7, 2021 suggests that the State will continue its impressive record of funding schools early in the session.

+ Progress on Flexibility - 2017

System-Based Proficiency and Further Expanded State Support for Property Tax Relief:

- Following up on the individual proficiency model implemented in Senate Bill 175 (2013 Session), the Legislature adopted **Senate Bill 103** (Senator Jones), which allowed school districts to largely replace a seat time instructional delivery model with a personalized learning proficiency model, based on student proficiency.
- **House Bill 647** (Representative Jones) expanded support for guaranteed tax base aid. As fully implemented, this change in GTB has expanded the state's share of school district general fund budgets by approximately 5% (growing from 63.9% state share to 69% state share in FY21) displacing with state funds what had previously been borne by local property taxes. The State's share of school district general fund budgets is at its highest level since 1991.

+ Progress on Flexibility - 2019

Expanded Personalized Learning Options Through Transformational Learning and Advanced Opportunities:

- House Bill 351 (Representative McKamey), Transformational Learning
 - Affords constitutional protection of personalized learning and expresses the
 - Legislature's intent that personalized learning is a valid means by which schools pursue the Peoples' goal of developing the full educational potential of each person.
 - "Transformational learning" means a flexible system of pupil-centered learning that is designed to develop the full educational potential of each pupil that:
 - is customized to address each pupil's strengths, needs, and interests;
 - includes continued focus on each pupil's proficiency over content; and
 - actively engages each pupil in determining what, how, when, and where each pupil learns.
 - Provides transitional funding for school districts strategically moving toward a proficiency learning model that emphasizes community-based, experiential, online, and work-based learning opportunities in both face-to-face and virtual settings.
- House Bill 387 (Representative Jones), Advanced Opportunities CTE
 - Provides a new funding stream in CTE emphasizing a personalized model supporting each pupil's postsecondary success path to align with each pupil's individual interests, passions, strengths, needs.
 - Emphasizes and authorizes investments in expanded work-based learning partnerships.
 - Provides funding to address out-of-pocket costs that would otherwise, in the absence of such expenditure, be assumed by a qualifying pupil.

+ Progress on Flexibility - 2021

Further Emphasis on proficiency and work-based learning, flexibility in licensure, student access to broad curricular offerings through offsite instruction and improved base teacher pay.

- LC 2324 (Representative Bertoglio), Comprehensive codification of personalized learning.
 - Further emphasizes and supports work-based learning opportunities through codification of certification flexibilities and course credit allowances and amendment of the definition of pupil instruction.
 - Codifies school board authority to waive courses and determine equivalent learning.
 - Clarifies a college professor can teach a course to K-12 students for college credit.
 - Codifies licensure for successful educators from other states and provides interpretive guidelines meant to ensure a regulatory approach that prioritizes granting, as opposed to denying, licenses to successful educators from other states.
 - Expands access of students to offsite instruction for advanced placement, dual credit and career certification courses.

+ Progress on Flexibility - 2021

LC 286 (Representative Jones): Providing incentives for increased base teacher pay. Incentive incorporated in [Governor Gianforte's budget](#).

- Using enhanced funding passed by the Montana Legislature since 2005, Montana's public schools have made great headway in improving teacher pay. From 2006 to 2017, Montana climbed from 48th to 27th in average teacher pay, improving its rank more during that time than all but two states (Iowa and Nebraska).
- Unfortunately, base teacher pay in Montana has not improved and remains 50th in the Nation.
- LC 286 provides an incentive equal to an extra quality educator payment for all teachers in the first three years of their careers in districts where base salaries are at least 10X the quality educator payment (minimum base teacher salary of 33,350 using FY21 numbers) and where, in Class 1 districts, base teacher pay is at least 70% of the average of teacher pay in such districts.

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Thank you!