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TESTIMONY AT PUBLIC HEARING
ON "STATE AND LOCAL RESPONSIBILITY FOR EDUCATION"
OF THE MONTANA CONSTITUTIONAL CONVENTION

PRESENTED ON JANUARY 28, 1972 BY
DOLORES COLBURG, STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

While we all may share a basic belief in education, we probably would not all agree on what should be incorporated in educational programs to create a comprehensive learning environment. Think tanks, university experiments, post-graduate dissertations, foundations, private corporations, government projects, schools, districts, teachers are all identified with the pursuit of successful educational techniques and programs. What we are about here today, though, is the design of a governmental structure which will encourage this pursuit, which will allow improvement and expansion of educational opportunities and quality.

Education has evolved through many separate stages since the Massachusetts General Assembly in 1647 first instituted education, in the form of Bible-reading, as a weapon against the Devil. We confidently can predict that we will see even more progress, more change in the next 50 or 100 years than we have experienced in the past 325 years. Educational programs that were unheard of even in 1950 exist today, and innovations that none of us can anticipate will be a regular part of education in the year 2000. Our task, here in 1972, is to insure that future educational efforts will be encouraged by the structure of government, that government will aid educators in surmounting obstacles, not create additional obstacles. To provide this insurance, we must examine the present provisions and reinforce those which have promoted educational progress.

The history of education in Montana is one of increasing state commitment to the educative process. We moved from an era of five-family school districts to one in which we now share resources for the best possible education of all Montana children. We moved from appointed superintendents during Montana's territorial years to elected superintendents of public instruction because the territorial superintendents convinced Montana citizens that education is too important to relegate to a subservient governmental agency.

Wise actions are grounded in sound philosophies. A key element in the enduring political, social, economic and ethical philosophy of Montanans is that no community, no state, no nation can be vigorous without committing itself to the education of its people. Acting on this pragmatic philosophy, Montana has committed itself to education by constitutionally providing for state establishment and maintenance of a system of public free common schools and by constitutionally providing for the governance of that system through a state board of education and the state superintendent and through vital legal and administrative links to the counties. Any weakening of that commitment would be a repudiation of Montana's history, a renunciation of the state's basic philosophy.

We all understand and accept the necessity of change. Political and educative processes are predicated on change; the citizens of a state work within these processes to direct change. The present constitutional provisions for the governance of education in Montana are good. Before we alter our structure of governance, we must be convinced that the new structure would be at least as capable as the present one.

Not being clairvoyant, nor even blessed with special insight, we cannot foretell what specific needs will evolve; but we can identify general educational goals that any structure we devise must serve. We want to give all of our children equal educational opportunity; we want to allow for educational development of individuals to the full limits of their capacities; we want to provide constitutional provisions for education that are broad and flexible enough to allow for experimentation and diversity; we want to promote an educational system that nourishes the whole person, that awakens him to the dazzling and various possibilities and responsibilities inherent in being a human.

Prerequisite to satisfying these concerns, there must be an expression of the importance with which the state regards education. We must first establish the degree of commitment to and responsibility for education. At this point, I direct my remarks to the subject of this hearing: "State and Local Responsibility for Public Education." I wish to make a brief case regarding four particular topics: the establishment and definition of education, the status of its governing authority, its source of financial support, and the role of local involvement in education.

A document is in preparation listing all current constitutional provisions affecting education in Montana and my specific recommendations respecting the provisions. It is not yet complete, but I will speak to some of the sections in my remarks today.

First, then, the establishment and definition of education. The record of educational achievement in the U. S. , as I hinted earlier, is one of which we can be proud. Historically, education has enjoyed increasing prominence, so that now it is a natural

and expected part of society with free public schools an expected service of government. Thus, arguments exist that education needs no special mention in a constitution because it is so "obviously" a function that government will exercise.

But there is a great variety of services we have come to expect from government. The days are gone when people banded together simply to support a school, a church and a local sheriff. In our complex world, the solutions to scores of problems are being sought by governments at all levels; and education must compete for the time, energy and resources available. If, in fact, we believe education to be so important--as I know we do--it is appropriate that our state constitution reflect that belief in a provision establishing the state's responsibility for public education.

Section 1 of Montana's constitutional article on education states: "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."

I believe that such a statement clearly charging the state with responsibility for education is necessary. The adjectives "general," "uniform," "thorough," and "common" may have lasted beyond their usefulness. In addition to "public" and "free," I would favor only those qualifiers which help expand the concept of school to include widely varying institutional forms which might be desirable in the future. Perhaps a substitution for the word "schools" would be appropriate. A suggested version of Section 1 might read: "It shall be the duty of the legislative assembly of Montana to establish and maintain a comprehensive system of free public educational institutions."

I wish to make clear my opposition to language which, in seeking to define education, tends to restrict it arbitrarily.

Section 7 of the present education article states that the schools shall be "open to all children and youth between the ages of six and 21 years." I submit that persons outside this range of ages have needs for education and have a right to the services of tax-supported schools. Thus, I urge deletion from the Constitution of any age restriction on future student populations. If the new constitution does not include a guarantee that education be provided to all, without regard to age, then I hope age restrictions would be relegated to the level of statutory determinations. Similarly, determination of the length of the school term, whether it be a minimum of three months as in Section 6 or six months as in Section 5 should more properly be a statutory matter. Programs highly relevant to life in 1990 or 2010 might require less than any minimum term set in a constitution. Allowance for such programs could more easily be made by legislative action than by constitutional amendment.

Therefore, I recommend inclusion of a provision establishing education as a responsibility of the state, but I would caution against restrictive definitions which could more appropriately be determined by statute.

With constitutional establishment of education, the status of the governing authority for education must then be addressed. Whether that authority should be vested in a board(s) of education, a superintendent of public instruction or both is a topic for consideration next Tuesday and Wednesday. At that time, I will provide evidence for what I believe to be the best system of governance. I wish to emphasize, however, the necessity of

constitutional status for education's governing authority. I believe the record in Montana proves that a degree of independence within government has been good for education; constitutional status helps insure such independence. Without it, education will depend on the interest shown in it by other offices in state government. Again, it can be argued that education is so generally accepted as a responsibility of government that any legislature will "obviously" provide for it. I, too, have a certain degree of such faith in government. And it is not from some fear that a legislature would ever want to abolish education that I favor independence for it. Rather, a degree of independence helps protect education from whims, extraneous pragmatic concerns and simple inaction. A constitutional provision defining the governing authority for education and stating a broad grant of powers to that body is insurance that education cannot find itself an orphan on a doorstep, crying to be cared for.

My third area of concern today, which naturally follows from these last remarks, is that the Constitution guarantee financial support for public education. By including in Section 1 a charge that the state "maintain" a system of schools, we are saying that the state should supply funds. The most desirable form of such support--what formulae or methods are best--is a topic we will be discussing at another hearing on February 8, I believe, and will be a most challenging undertaking. The recent California Supreme Court decision in the Serrano case dictates an arduous study of Montana's system of financing public schools. Montana is in a position to develop a system of educational financial support which could serve as a model for other states. Given this opportunity, we should not be reluctant to accept leadership in the realm of educational finance; we could, in fact, use this opportunity to design a just and general distribution of state monies for the support of education. It is my earnest belief that education is so

necessary to and valued by the people of Montana, however, that a guarantee of funds for the operation of schools must be underwritten in the constitution.

Lastly, I would like to comment on the value of local involvement in education. Other Western societies provided the basis for American education, but we added two dimensions which have contributed immeasurably to our success; they are free education for everyone and local control of education. Our federal government was not specifically granted any powers whatsoever in the conduct of education. And while states have supervised schools, provided funds and services, and coordinated educational efforts, the control over curriculum, teachers and school services has remained in the hands of those people directly concerned with the individual schools as taxpayers, parents, and, more recently, as students. I firmly believe this is as it should be. I would just say today, in broad terms, that state-level education officials probably are most valuable for the services they can provide to districts, for the leadership inherent in their positions. Progress in education is most successful when initiated and carried out with support of the people, and local control helps assure such support.

In conclusion, I would point out that education has flourished under high visibility in this state. Until we are convinced that it would also flourish under other conditions, we must strive to retain that visibility. Education, "the very foundation of community life, of effective participation in the political process, of the consensus of shared democratic values," is a fundamental right. We must have it on our minds daily.

¹ Amici Curiae Brief of Stephen D. Sugarman et al in John Serrano, Jr. vs. Ivy Baker Priest in the Supreme Court of the State of California, L.A. No. 29,820, p. 28.