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Dolores Colburg testimony to the Education and Public Lands Committee

Dolores Colburg

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Through the Enabling Act and the consequent provisions of our Constitution, our forefathers wisely created a source of financial support for our schools that, as subsequent events have proved, ought to be retained. For the present fiscal year, payments from the public school funds to the state's public schools will approximate \$7 million or about 15% of the total state support available to our schools. Although at present this source of public school support is guaranteed by the Enabling Act, I submit that it would not serve the public interest to eliminate the constitutional provision covering this source of revenue for the basic support of our schools.

Article XVII and sections 2, 4 and 5 of Article XI concerning the school lands and the creation of the public school fund are worthy of particular comment.

Section 2 of Article XI provides for the creation of the public school fund and the use of the proceeds from granted lands for the schools. Although underwritten by the Enabling Act, it is important that this source of revenue for our public schools continue to be established in our Constitution.

Section 4 of Article XI provides that the governor, the superintendent of public instruction, the secretary of state and the attorney general shall comprise the state board of land commissioners "which shall have the direction, control, leasing and sale of the state's school lands." This provision, that the land board manage school lands, should be retained in the Constitution. Moreover, it is necessary for the superintendent of public instruction to continue as a member of the land board for several reasons. The state superintendent of public instruction is the only tie between the management of the school lands and the use of the monies derived from these lands

for the state's schools. As the chief state school officer, the superintendent of public instruction has a primary and compelling interest to see that the lands are adequately protected and that the proceeds from these lands are used in the best interests of our state's public schools. The state superintendent has a vital concern that the interests of our schools are safeguarded and that the future financial support from the state for our public schools is guaranteed. No other member of the land board perhaps cares as much about the future management of the school lands as the chief state school officer.

Section 5 of Article XI stipulates a formula for distribution of the interest and income of the public school fund to the state's schools. The present formula, designating that 95% of the interest received on the school funds and 95% of all rentals received from land leases be distributed to the schools and that 5% of the interest on the school funds and 5% of all rentals received from leases be added to the public school funds and remain inseparable and inviolable, should be retained. I recommend, however, that the method of distributing the funds to the public schools might be prescribed by statute.

The classification procedure for the state lands and restrictions as to the sale of such lands, prescribed in Article XVII, also should be retained.

The principles contained in Articles XI and XVII respecting the school lands are sound, basic and prerequisite to the state's support for the education of Montana youth. They are sound because, with few exceptions in the earlier part of this century, there has been wise and judicious management of the school lands. They are basic because these lands are held in public trust for the benefit of Montana's educational future,

and they provide for the protection of these natural resources. They are prerequisite because they are a vital source of state support for education.

I understand, Mr. Chairmen, that I will have an opportunity on February 9 to discuss with you details of these constitutional provisions. I believe that some modification might be made to provide a greater monetary yield and more equity in the distribution of interest and income monies to our schools. Two important considerations, however, pertain to these provisions. One, revision of constitutional provisions respecting the public lands must be consistent with the provisions of the Enabling Act. Also, delegates should be aware that efforts are being made in Congress to repeal conditions of the various state land grants. We must anticipate such changes and make appropriate provision for the future protection of this source of public school support.

It is also possible that a degree of flexibility should be provided by leaving to statute certain matters that may help to develop our land resources as a public asset. I refer to Chapter 295 of the Session Laws of 1967. This statute provided for a small portion of the interest on school fund rentals received to be set aside for the future development of such lands. Following the passage of this beneficial legislation, the constitutionality of the statute was questioned but was clarified by a subsequent Attorney General's opinion. Perhaps the state constitution should address itself to any future questions of this kind respecting development of the public lands. It is also possible that statutory provision should be made to guarantee public access to these public lands under certain assurances and conditions protecting the state's interests and the interests of lessees.

In summary, Mr. Chairmen and committee members, I would urge the retention of those provisions which guarantee the protection and preservation of our public lands and the proceeds from the use thereof for our schools. Minor modifications might be beneficial, so long as they do not tamper with the intent of the Enabling Act and wise management of school lands for the future.