

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

(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.

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

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

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

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

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state superintendent of public instruction shall be ex officio non-voting members of the board.

#### **Convention Notes:**

Revises 1889 constitution by creating one board (Board of Public Education) to supervise the public school system and a separate board (Board of Regents of Higher Education) to supervise the university system. The two boards together form one board (Board of Education) for considering mutual problems. Under 1889 constitution there is just one board to supervise the entire educational system. Each of the two proposed boards consists of 7 persons appointed by the governor (one less than in 1889 constitution). The governor and superintendent are ex officio, nonvoting members (the attorney general is an ex officio member in 1889 constitution).

#### **Transcripts:**

Delegate Champoux: . . . All right, let's go to the new public board, or the Board of Public Education, Section 10. The membership is prescribed, and its responsibilities are prescribed also. As described in the preceding comments, the greatly expanded activities, personnel, and funding involved in elementary and secondary education requires that this crucial sector of education have its own administrative board. The largest share of state funds for any one purpose goes to elementary and secondary education. The state administers over 25 major federal programs in

education at this level. The kinds of education needed and offered are constantly changing and expanding. A board which is to cope adequately with this vast area of responsibilities must consist of members who are qualified and who have sufficient time to become knowledgeable about the particular problems and issues of public education. A board is no more capable than is a Superintendent of being competent to administer two fundamentally different areas of education. Now, another problem that's arising here, and I'm sure that if you've been reading the papers and you look at the Serrano thing and so forth, it's very, very obvious that we're going to get more federal funding. Now, there have been two studies on this. The commission--the presidential commission that was issued--the report that was issued last Monday said that we're going to get, at a minimum, 21 percent of federal funding--21 percent. Now, another intergovernmental commission that issued a report in January, a presidential commission, said that these grants will be conditional on matching or more funds. Now, if that's true--now, presently we're getting 77 percent federal funding. If we're going to have 21 percent federal funding, that means, then, that the state government is going to be putting in 21 percent; that gives you 42 percent. Presently the state government is putting in 27 percent. You're talking about 69 percent state and federal funding--69 percent. Now, it is my estimation from all that I know, and I'm sure that some of the members of the Revenue and Finance Committee will agree with this, since they have studied extensively, that that figure is going to be an absolute minimum. It is probably way too low. What I'm saying here, then, is that we're talking probably about anywhere from 80 to 85 percent federal and state funding that's coming, and we might as well face it. Now, with all of that money flowing through the state, don't you think we need another board to be looking at it--a board of lay people watching over this, having a check on the State Superintendent's office, and so forth? The need for a separate board for public education promises, then, to become even greater in the future. The present trends indicate the assumption of much greater role in educational financing by state and federal, possibly as much as 90 percent--and I don't want to go into that, because this is according to Serrano, and there's a variance factor there that--constitutional lawyers say there's somewhere between 10 and 12 percent, but we don't know. Well, a well-informed and representative board would provide a much-needed balance to decisions on administrative policies, and that is one of the things I want to emphasize. In this whole business of the boards, we have to keep in mind all the time that the Legislature is not going to be here in session all the time, that the representatives of the people are not going to be here administering this. And the greatest fear is the bureaucracy; the greatest fear is the bureaucracy. A large majority of witnesses who testified on the subject, including key state officials and many educators, spoke in favor of the two-board concept. As a matter of fact, every major person involved in education, like the State Superintendent of Public Instruction, the Presidents of all the University Systems, community--the university units--the community college presidents, the Montana Education Association, the largest education association in the state, and many, many other groups totally support this two board concept. Three major studies that have been made since 1958--the Durham Report, the Peabody Report, and the Legislative Council study of 1958--and all of them support the two-board concept. Not only that, at one time we had a constitutional amendment brought out--I believe it was in 1960; three of them were brought out--they were never put on the ballot, because they weren't signed by the Governor. It had nothing to do with the two-board concept. The longest-serving member of the State Board of Education, Maury Richards--many of you know him--sent us a letter, and I quote: "Please give every consideration to a two board system. Frankly, even the most capable, dedicated board

member finds it impossible to do justice to the total assignment." Numerous studies have shown that we need this. *The fear has been expressed that a separate board for public education might usurp the powers of local boards. There is no reason to be concerned about such a policy possibility--however, since the powers granted the state board would be almost identical to those now granted, and what we have just done is to guarantee the control by the local board at the local level. Indeed, the committee has actually deleted the word "control" from the powers and granted--now granted the board, so that the new section reads: "exercise general supervision over the public school system."* It would be difficult to argue that this grants any additional powers to the state board at the expense of local school boards. Under existing law, vocational--let me bring up this question about where's the vocational-technical schools going to go. This has caused a lot of concern. I want to make sure, at this time, for the record, the feeling of the committee and cite a number of other things. First of all, the committee wants it categorically stated that their feeling is that they want the vo-tech schools to remain under the secondary-primary board. Now, we have consulted with constitutional lawyers on this. They say that the statutes would not change unless the Legislature decided this. See? Now, why haven't we stated that the vo-tech centers will remain under the secondary--or the primary board? Well, very simply because the vo-tech representatives that came to us and said--and I'm quoting directly from the transcript of the meeting--Mr. Driscoll and--Maurice Driscoll, a fellow delegate and Bill Korizek, representing the vo-tech centers, said that they "wanted no mention of specific units in the Constitution". No mention of them. And we agreed with that, because we felt it would be too restrictive and would set these units in concrete. Not only that, they stated--and I quote--they "favored one single board of education". I notice that Mr. Driscoll has brought up an amendment. He's going to be advocating that; and Mr. Gysler also has some connection with the vo-tech--is also advocating that. But notice this, and I quote from their own testimony--they "favor one single board of education with three subdivisions". Three subdivisions. Now, why are we concerned a little bit about this? You notice the same wording is used over in the new Board for Higher Regents, with one little variation that I will explain to you when we get to it. Now, why have we done this? Well, if you go back to 1889, who ever heard of vo-tech centers in 1889? Who ever heard of community colleges in 1889? What are these schools going to be called in 1999? What kind of schools are we going to have in 1999? What we've done this for, then, is to provide some flexibility so there can be movement back and forth. Not only that, I want you to note that only 61 percent of the vo-tech education is in the vo-tech centers; 39 percent of it is in either the community colleges or at Havre--at Northern at Havre. These figures come from the Department of Public Instruction, and also Mr. Ball's office in the Vocational office. Well, what we are trying to do, then, is to provide flexibility. From what we have found out, the greatest emphasis perhaps in the next 20 years is going to be on vo-tech education, or what would be called practical education. After all, isn't a teacher a vocation, too? And it's estimated, within 10 years, perhaps 50 percent of all education will be of this nature. This is why we have attempted to provide some leeway, some flexibility, where these units could move back and forth. Within 10 years, 50 percent, perhaps, of all education will be of this type, and it will be involved not only at the kindergarten level but all the way up through and including the university level. All right, the voting members of the board would consist of seven members selected by the Governor for 6-year overlapping terms. The Governor and Superintendent retain ex officio membership on the board, but in a nonvoting capacity. Now, the reason why we did that, we heard from many people voting--board members also--that sometimes these people come in--they come in with their

proposals, you see; especially the State Superintendent of Public Instruction. Here's her proposal to the board, and then she votes on it. And we thought that that perhaps wasn't right, so this is why we put that in there. We feel that the elected officials should be separate from the board decisionmaking but should retain membership on the board for informational and coordinating purposes. The committee feels that the duties of the Superintendent should be legislatively prescribed to allow for changing conditions and possible alterations of the relationship between the board and the Superintendent. It is fully expected by the committee that the office of Superintendent shall be provided by election, and it has been. A majority of the committee feels strongly that the Superintendent should be elected--well, I don't have to go into that. Vol. VI, 2049-2057. (emphasis added)

**Section 10. Board of Public Education.** There shall be a Board of Public Education, which shall exercise general supervision over the public school system and such other public educational institutions as assigned by law. Said Board shall consist of seven members, appointed by the Governor, with confirmation of the Senate, to 6-year overlapping terms. The Governor and the State Superintendent of Public Instruction shall be ex officio nonvoting members of the Board. The duties of this Board and the Superintendent of Public Instruction shall be prescribed by law.

#### **Transcripts:**

Delegate Champoux: And I'm going to be brief, sir. Very briefly, if you look at this section compared with the old section, you'll find out that we've eliminated the word "control". Now, we did this to alleviate any fears that the local boards might have. This indicates, in our mind, that the local boards should stay in control of education at the local level. And we've indicated this also by passing the section, last Friday, which gives them control over local education. We use the word only "supervise". Notice the words "such other educational institutions as assigned by law". Here our intention is that things shall remain as they are presently. Now, under statutory law, the vo-tech centers are assigned to this board. It is the intent, as I've indicated before, that this remain--the intent of the committee--remain as it is--also, at the suggestion of Morris Driscoll, who is the President of the Vo-Tech Center at Butte, and other leaders of the other vo-tech centers. Now--and we're also going to indicate this in the other board under Section 11 for the community colleges. Now, when we get to the duties of the Board and the State Superintendent, we had a big, long discussion, quite a bit of deliberation. And the possibilities, of course, were do we make the board--give them power over the State Superintendent? Now, we thought that that was probably ridiculous, since she was an elected official. The other alternative is, of course, do we make her, then, in complete charge of this Board appointed by the Governor and representing, directly, the people? We thought that wasn't the best thing to do either. Then we looked at the present situation and we found that, as--at present, the duties and--how do we word it?--yes--the duties of the Board and the Superintendent are prescribed by law, and so we left it the same. It has worked quite well in the past, so this is why we left it as it is. Mr. President, thank you. Vol. VI, at 2097.