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Attorney for Intervenor-Applicants

MONTANA FIRST JUDICIAL DISTRICT COURT,
LEWIS AND CLARK COUNTY

JESSICA FELCHLE; BEAU WRIGHT; the
MONTANA QUALITY EDUCATION
COALITION; the LEAGUE OF WOMEN
VOTERS OF MONTANA; SHARON
CARROLL; SUZANNE MCKIERNAN;
LINDA ROST; PENELOPE COPPS; LANCE
EDWARD; and CORINNE DAY,

Plaintiffs,

vs.

STATE OF MONTANA; GREG GIANFORTE,
in his official capacity as GOVERNOR OF
THE STATE OF MONTANA; and ELSIE
ARNTZEN, in her official capacity as
SUPERINTENDENT OF PUBLIC
INSTRUCTION,

Defendants.

Cause No.: D DV-25-2023-425-IJ

Hon. Chris Abbott

**Declaration of Representative
Jonathan Windy Boy in Support of
Intervention**

I am over the age of 18 and competent to testify to the following:

1. I am a representative in the Montana House of Representatives, elected to represent District 32, which encompasses Box Elder, Montana. I started serving in the House of Representatives in 2002. From 2008 to 2016, I served as a member of the Montana Senate.

2. I am an enrolled member of the Chippewa Cree Tribe, and I served as a member of the Tribal Council.

3. Education has been an important issue for me in my service as a legislator and as a member of the Tribal Council. I have talked to many parents, students, teachers, and school administrators about the current state of education in Montana, especially education on Reservations and in border towns. What I have learned, especially from parents and students, is that there are many students whose needs are not being met within the traditional public school system. Many students fall through the cracks and do not make it through to graduation. I know from my interactions with students, their parents, and school administrators that many of these students have the capability to perform well in school and to graduate, but are failing in the public school system.

4. District 13-G, which encompasses Box Elder, Montana and the Chippewa Cree Reservation, is a Class 3 district.

5. I became convinced that, especially for students who are at risk of early dropout, a different public school model is needed that focuses on the needs of those students. As a consequence, I have long been a supporter of high-quality charter schools, and especially high-quality charter schools that provide mechanisms for public education focused on the needs of at-risk students.

6. My concern about the public school system as it currently stands is that we are not doing enough to improve the system so no students are left behind in all schools statewide. The problems are especially apparent at public schools on Reservations and in border towns. Take for example Rocky Boy High School, which is four miles from my home in Box Elder. Recent reports indicate that Rocky Boy High School is at the bottom of the list as one of the worst

performing schools in Montana and is not even meeting basic standards in core subjects like English and Math. Those troubling statistics were recently highlighted in the news media based on statistical analysis. See <https://xlcountry.com/higher-learning-montana-high-schools-ranked-from-best-to-worst/>.

7. This is why I was an ardent and early supporter of the Community Choice Schools Act, HB 562. The Community Choice Schools Act is designed to allow Community Choice Charter Schools to be formed that focus on specific needs of students to ensure that students, like those in Box Elder, are not left behind. It is also why I wanted to intervene in this litigation to defend the constitutionality of the law because it is important to so many students and parents, especially on Reservations and in border towns.

8. HB 549 is another charter school option, but is geared toward accommodating larger, more traditional schools. The Community Choice Schools Act is needed because it accommodates creation of more specialized public schools that fit individualized needs of students, including students that are at risk of dropping out, students with special needs, and students who are not being challenged or thriving in a traditional public school.

9. I am in the process of working with other educators and administrators to start a Community Choice Charter School on the Chippewa Cree Reservation. Our plan is for the school to have an immersive dual language component so students are taught in both English and the language of the Chippewa and Cree.

10. Dual language instruction has many positive benefits. It helps to keep our language and culture vibrant for younger generations, and it is especially important in developing an understanding and awareness of Tribal culture and history. Dual language instruction also has many well-studied benefits for students, including increased brain density, increased cognitive

dexterity and problem-solving skills, improved communications skills, and it promotes increased confidence and cultural identity.

11. To the best of my knowledge, no traditional public schools on Reservations or in border towns utilize a comprehensive dual language program, and, in my conversations with administrators, they have not been open to focused and comprehensive dual language instruction. I have also become frustrated by my interactions with administrators by the lack of effort to address the needs of students who are at risk of dropping out. Based on my personal knowledge and interactions with the school district, I do not believe the local public schools are able to provide adequate dual language instruction within the existing structure on the Reservation.


12. A specific purpose of the HB 562 is to preserve American Indian cultural identity and eliminate achievement gaps of American Indian students. I am encouraged by the ability to form a Community Choice School with administrators and educators with specialized knowledge of dual language programs.

13. Another advantage of the Community Choice School Act is that selection of the school's governing board is not limited to individuals within the boundaries of the school district or contiguous school districts, as HB 549 requires. That allows us to draw on expertise in dual language and American Indian education from outside of District 13-G.

14. Community Choice Schools also have the ability to have a virtual presence, which means that we will be able to include students outside District 13-G who would benefit from dual language instruction and instruction focused on American Indian cultural heritage. That option is especially important for students who are at risk of dropping out. I understand that traditional public schools and Charter schools under HB 549 are either limited or prohibited from establishing virtual schools.

15. I understand that Community Choice Schools are under the general supervision of the board of public education.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my understanding and knowledge.


Jonathan Windy Boy (Sep 8, 2023 12:32 MDT)

Dated: _____

Jonathan Windy Boy
Box Elder, Montana

CERTIFICATE OF SERVICE

I, Dale Schowengerdt, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Affidavit in Support to the following on 09-15-2023:

Rylee Sommers-Flanagan (Attorney)

P.O. Box 31

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Representing: Beau Wright, Jessica Felchle, Corinne Day, Linda Rost, Sharon Carroll, League of Women Voters of Montana, Lance Edwards, Montana Quality Education Coalition, Penelope Copps, Suzanne McKiernan

Service Method: eService

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Service Method: eService

Electronically Signed By: Dale Schowengerdt

Dated: 09-15-2023