Karen Lidster

From: Sen. John Coghill
Sent: Thursday, March 21, 2013 9:27 AM
To: Karen Lidster
Subject: FW: testimony for hearing record on SJR9

From: Dennis Fradley [mailto:denfrad@gci.net]
Sent: Thursday, March 21, 2013 9:06 AM
To: Sen. John Coghill
Cc: Bethany Marcum
Subject: testimony for hearing record on SJR9

From: Dennis Fradley <denfrad@gci.net>
Date: March 20, 2013 11:02:33 PM AKDT
To: Senator.John.Coghill@akleg.gov
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Subject: testimony for hearing record on SJR9

March 20, 2013

Sen. John Coghill, Chairman
Senate Judiciary Committee

Please include my comments in the record for the hearings on SJR9

Thank you
Dennis Fradley

Time to end discrimination in education

After the end of the American Civil War, the country added the 14th amendment to the U.S. Constitution. This amendment guarantees fair and equal treatment for all Americans.

However, the ink barely had time to dry before two discrimination policies were adopted that penalize certain children because of their race or their religion.

Many states didn't want black boys and girls attending their all-white schools. They came up with a "separate but equal" policy that in theory provided an identical quality of education -- in segregated schools. In reality the education in black schools was inferior.

Racial discrimination in education lasted about 75 years -- until 1954, when the U.S. Supreme Court ordered the end of the separate but equal practice in its landmark decision on Brown vs. Board of Education.

Then there was religious discrimination.

It began about the same time period, following a large immigration of Catholics to the United States in the mid-1800s, a result of the potato famine in Ireland.

Over the years these new American families began voicing objection to the religion being taught in the public school system. Schools were teaching a generic form of Protestant religion, using the King James version of the Bible, and prayers and teachings that were different than Catholic teachings.

There were reports of harassment and bullying of the Catholic children. Parents began requesting government support for their children to be taught their own religion.

The nativists (we call them sourdoughs in Alaska)strongly opposed that idea. They called on government to prevent it. The complaints caught the attention of President Ulysses Grant. According to a history professor from Maine with whom I spoke, the President was up for reelection and happened to be looking for an issue to draw voters attention away from scandals of his first administration.

Grant encouraged then Speaker of the House, James Blaine of Maine, to sponsor a constitutional amendment to prohibit government spending from benefitting sectarian (meaning Catholic) institutions. The amendment got the necessary two-thirds majority vote in the House but failed in the Senate.

Advocates then moved to individual states, which were urged to amend their constitutions with a Blaine-like clause. Congress also passed a statute requiring territories to have such a clause in their Constitutions in order to be accepted into the Union.

Alaska and Hawaii, the last two to enter the Union, include it as the law required. Ours, confirmed by voters in 1956, is in Article VII.

Thirty-seven states at one time had some form of a Blaine-like clause in their constitutions. In some states, their courts dismissed the significance of the provision while in others the courts called for it to be strictly enforced. Alaska's court is in the latter category.

It's a little ironic that at the time Alaskans voted to ratify their constitution the nation was preparing to elect a Catholic as U.S. President. That's a fairly good indicator that the anti-Catholic sentiment that had swept the nation a century earlier was disappearing. By this time, however, the "Blaine-like" amendment was serving another purpose -- it was helping to ensure a reliable revenue stream for the collective bargaining units that represent school employees.

Unlike the separate but equal racial discrimination policy which kept black children out of the white public school system, the religious discrimination laws in the early half of the 20th Century kept non-Protestant families from receiving educational assistance to enroll their children in other than government-run public schools. The option of a private school education was not economically feasible for most of these families, especially those with a large number of school-age children.

Religious discrimination in the United States has gone on for more than century. In Alaska it's been practiced since statehood. Families that contribute their share of taxes for education are denied the benefit for education unless they put their child in the assigned government-run school.

In 2002, 50 years after Brown vs. Board of Education put an end to "separate but equal" racial discrimination, the court issued another landmark decision.

It declared that the U.S. Constitution does not necessarily bar states from providing voucher or other educational assistance to families to allow them a choice between government and non-government schools.

The Zelman decision, which upheld the legality of a voucher program in Cleveland, identifies specific guidelines available for all states to follow if states want to provide school choice for their residents.

The Establishment clause is part of the first amendment of the Constitution. It says "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." A number of years ago the court said this clause applies to state and local governments as well as to Congress.

According to Zelman, for a state education assistance program to not offend the establishment clause, the program must be neutral with respect to religion and provide assistance directly to a broad class of citizens. The recipients of the assistance in turn direct government aid to non-government schools wholly as a result of their own genuine and independent private choice.

State and local governments, under the Zelman ruling, cannot determine which non-government schools can be chosen by a parent, nor can a state or local government provide funding or property directly to a religious institution.

Bottom line -- the high court says school choice is possible under the U.S. constitution. Unfortunately, our own constitution stops us. Article VII in Alaska states "No money shall be paid from public funds for the direct benefit of any religious or other private educational institution."

Today, more than 20 states offer parents some form of education choice. According to a number of studies, students in these areas where choice is provided are doing much better in both the private and in the government-run public schools. Competition is working.

A few weeks ago the Senate Judiciary committee heard from the lawyer from the Institute of Justice, Richard Komer,. He reported that 12 states so far have amended or repealed their Blaine provisions. Alaska should be among them.

The resolution now before the committee would give Alaska voters the opportunity to repeal the Article VII, Section 1 clause and give the Legislature and Governor the go-ahead to consider school choice for Alaska.

Alaskans look to their representatives in Juneau to provide them this opportunity.