

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By CHAIRMAN DARYL TOEWS, on January 8, 1997, at 1:06 p.m., in Room 402.

ROLL CALL

Members Present:

Sen. Daryl Toews, Chairman (R)
Sen. C.A. Casey Emerson (R)
Sen. Debbie Bowman Shea (D)
Sen. Delwyn Gage (R)
Sen. Wm. E. "Bill" Glaser (R)
Sen. John R. Hertel (R)
Sen. Loren Jenkins (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Mignon Waterman (D)

Members Excused: Sen. Steve Doherty (D)

Members Absent: None

Staff Present: Eddy McClure, Legislative Services Division
Janice Soft, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 10, SB 4; Posted 12/30/96
Executive Action: None

Introductory Meeting and Procedures Discussion

CHAIRMAN DARYL TOEWS welcomed everyone and introduced the staff to the Committee. He then explained the procedures: (1) The votes will be held open for 24 hours; (2) Proxies will be accepted but they must be specific; (3) Verbal small amendments will be accepted; (4) Request for substantial amendments must come from a Committee member and go through Eddy McClure; (5) Those who give testimony must sign in legibly and if the testimony is written, they should please hand a copy to the Committee Secretary.

CHAIRMAN TOEWS introduced Erik Hansen from the Governor's Office, who will be testifying on educational policy issues. Mr. Hansen

invited Committee members to his office to talk about educational matters.

CHAIRMAN DARYL TOEWS announced a school funding seminar to be conducted by OPI next week. He also announced the Committee would meet on Monday, January 13, 1997, for a brainstorming session on "Education in Montana: What's Right, What Can Be Improved, How Can Those Goals Be Accomplished?" He suggested the members speak for only eight minutes each.

HEARING ON SB 10

Sponsor: SEN. DON HARGROVE, SD 16, Bozeman

Proponents: REP. ROBERT PAVLOVICH, HD 37, Butte
ROGER HAGAN, Officer & Enlisted Association of
Montana National Guard
KATE CHOLEVA, Montana Women's Lobby
BRIGADIER GENERAL GARY HINDOIEN, Department of
Military Affairs
LEROY SCHRAM, Board of Regents, University System
MAJOR BILL FOSTER, Department of Military Affairs

Opponents: NONE.

Opening Statement by Sponsor:

SEN. DON HARGROVE, SD 16, Bozeman, presented SB 10. He said in years past the Legislature had authorized the Board of Regents to allow certain fee or tuition waivers for various groups but one group was omitted; spouse or children of a National Guard member who was killed in action or died as a result of injury, disease or other disability incurred while serving on state active duty.

Proponents' Testimony:

Rep. Robert Pavlovich, HD 37, Butte, said he served on the interim Veterans Needs Committee for the past four years and said SB 10 originated in that committee. He said he was testifying on behalf of Rep. John Johnson, HD 2, Glendive, who was unable to attend. Rep. Pavlovich said both he and Rep. Johnson totally agree with SB 10 and would like to take care of the Montana National Guard.

Roger Hagan, Enlisted and Officers Association of the National Guard of Montana, spoke in support of SB 10. EXHIBIT 1

Kate Choleva, Montana Women's Lobby, voiced support for SB 10.

Brigadier General Gary Hinoien, Department of Military Affairs, spoke in support of SB 10. EXHIBIT 2

LeRoy Schram, Board of Regents, University System, said the Board was generally not in favor of expanding fee waivers but was in favor of SB 10 because of the small number involved and to show recognition of the valuable service performed by the National Guard. **Mr. Schram** urged the Committee to support SB 10.

Major Joe Foster, Department of Military Affairs, offered support for SB 10. He said they worked hard to make prospective National Guard members understand they were different from other military services, particularly reserve components, in that the National Guard has a state and community mission. This means in times of emergency, disaster or need, the Guard is called to state active duty in support of the citizenry. **Major Foster** further explained this unique military relationship to the state and its citizenry makes the National Guard a part of the Department of Military Affairs, which makes the Guard distinct from the other reserve forces. He said the tuition waiver benefit will represent Montana's commitment to its civilian soldier or airmen dependents.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. MIGNON WATERMAN asked **LeRoy Schram** for financial information for the various categories listed in SB 10 and **Mr. Schram** said he would be sure she got it.

SEN. MIKE SPRAGUE asked **Roger Hagan** if SB 10 meant children of any Guardsman who died for any reason would have a carte blanche education. **Mr. Hagan** said that was not the intent and SB 10 specifically addressed that issue. **SEN. SPRAGUE** said "on" as opposed to "in" seemed to indicate a carte blanche. **Mr. Hagan** explained he would defer to the drafters of the bill to determine why the wording was used; however, he said while a person was on active duty, the duty was for 24 hours a day, 7 days a week, even when on release-from-duty time because the person was there because of the direction of the governor. **SEN. SPRAGUE** said he was concerned about injuries incurred after duty.

SEN. BARRY "SPOOK" STANG asked **Sen. Hargrove** if more work could be done on the language of SB 10 because of the potential of Workers Comp claims, etc., by National Guard members, i.e. make sure the injury happened on the job. **Sen. Hargrove** said he didn't mind; however, great care would have to be taken for the language not to become too detailed, which could cause more problems. He said he felt a good job had been done based on active duty determinations of active duty, i.e. arthritis incurred normally from active duty spent in a full career in the military, which is considered a disability because it was incurred during the career.

SEN. LOREN JENKINS asked for a clarification of the language difference between Subsection B, Line 29, and Page 2, Line 4.

Sen. Hargrove said Line 29 meant any army, air force or navy and Line 4 includes guardsmen. **SEN. JENKINS** commented it was copied out of the current law book, but the Guardsmen were added. **Sen. Hargrove** agreed.

SEN. MIKE SPRAGUE claimed his experience was the disability had to be proved to be service-connected. **Sen. Hargrove** said service-connected determinations were made in the line of duty, even though it happened in a bar, for example. **SEN. SPRAGUE** asked if words like "service-connected" could be used to help clarify the intent. **Sen. Hargrove** said the wording was open and additions could be made but the reading should be the same for both.

SEN. DELWYN GAGE asked if the discussion in the interim committee also covered the disabled guardsman him/herself only to the extent retraining was necessary. **Sen. Hargrove** said he thought Workers Comp would take care of the problem. One of the military representatives commented guardsmen who are on state-active duty under the order of the governor are covered under Workers Comp.

Closing by Sponsor:

Sen. Hargrove said the citizenry cannot compensate for the sacrifice, but SB 10 was a minimal and practical gesture to address the loss of family, family leadership and earning ability.

HEARING ON SB 4

Sponsor: SEN. CASEY EMERSON, SD 14, Bozeman

Proponents: REP. GAY ANN MASOLO, HD 40, Townsend

Opponents: ERIC FEAVER, Montana Education Association
 JOHN MALEE, Montana Federation of Teachers
 ANDREE DELIGDISCH, Mental Health Association of MT
 SPENCER SARTORIOUS, Office of Public Instruction
 SHARON HOFF, Executive Director, Montana Catholic
 Conference
 LANCE MELTON, Montana School Boards Association,
 School Administrators of Montana
 KATE CHOLEVA, Montana Women's Lobby
 LARRY FASBENDER, Great Falls Public Schools
 SEN. DEBBIE SHEA, SD 18, Butte
 MARY SHEEHY-MOE, Herself
 KATE MURDIECK, Families Preventing Child Abuse

Ponents: WAYNE BUCHANAN, Board of Public Education

Opening Statement by Sponsor:

SEN. CASEY EMERSON, SD 14, Bozeman, said for 150 years Montanans lived under a bill worded very closely to SB 4, but it was changed by the 1991 Legislature who thought the changes would be good for discipline. However, the results of the changes were the opposite of the anticipated outcomes. He said SB 4 proposed a return to the original law, which promoted excellent education because of better discipline, less classroom disruption and reduced violence. **SEN. EMERSON** mentioned the number of private and home schools has increased in the past few years, some of which can be attributable to the public school discipline problems. He felt if the problems were not alleviated, the survival of the public schools could ultimately be in jeopardy. He reminded the Committee he had taught school for 28 years and believed in public education.

SEN. EMERSON mentioned common news items which informed the public about lack of student or child discipline in many kinds of situations, and the outcome of this lack of control appeared to be falling test scores. He said the passage of SB 4 would not require any teacher or administrator to change his or her way of classroom or school discipline; however, corporal punishment would be an option, if needed. **SEN. EMERSON** said he felt the threat of corporal punishment would assist in keeping classroom and school behavior under control because much of the open defiance would be eliminated; therefore, the teacher could demand that work be done. He said the interpretation and use of the 1991 legislation resulted in selling our students short, i.e. learning subject matter, social behaviors and recognition of authority.

SEN. EMERSON said Montana needed to return to the law as it was before 1991 because it worked. He said the last six years have hurt the schools, society and the state.

Proponents' Testimony:

Rep. Gay Ann Masolo, HD 40, Townsend, said some rules and procedures made it so difficult to control a disruptive student both in school and on the playground that teachers and playground supervisors must endure unruly and abusive behavior. However, she said she wanted the Committee to clearly understand she was not advocating abuse or violence or the idea that spanking was always warranted, but should be used as a backup to correct deliberate and persistent behavior which was not remedied through more mild measures. **Rep. Masolo** said some would say violence promoted violence but she assured the Committee a 1991 study showed no association between disciplinary spanking and juvenile delinquency, while a 1995 study from Sweden showed a four-fold rise in child abuse and a 6-fold increase in teen violence in the

ten years corporal punishment had been outlawed in that country.

She informed the Committee researchers from the American Academy of Pediatrics believed teaching parents responsible disciplinary approaches could actually reduce child abuse and juvenile delinquency. The Family Research Council commissioned a survey which said 4 out of 5 Americans who were spanked as children felt it was an effective form of discipline. **Rep. Masolo** said she had taught school for 30 years and had never used physical discipline; however, she found no fault with SB 4. Rather, people connected with education had come to her and asked for passage of SB 4.

Opponents' Testimony:

Eric Feaver, Montana Education Association, began his testimony by saying MEA rose in opposition to SB 4. He said MEA had been involved in repealing the law in 1991 because corporal punishment was bad education, bad discipline and would mislead the Legislature and public into thinking problems would be corrected through such means. It would also mislead parents into thinking schools were administering potential punishment on their children without their permission and would mislead teachers into believing they had authority to use corporal punishment; when in fact, the only time a teacher may inflict corporal punishment is when there is no other administrative authority in the school. **Eric Feaver** said SB 4 would not grant the teachers authority to use corporal punishment; therefore, the title was misleading.

He called the Committee's attention to Page 1, Lines 20-28, and Page 2, Lines 1-7, which offered the definition of corporal punishment. He said SB 4 would strike the above-mentioned text, which would also delete the definition of corporal punishment, i.e. it would be possible to say corporal punishment could be bodily punishment inflicted without undue anger in the presence of witnesses.

Mr. Feaver asked the Committee to consider the definition of "undue anger", "in the presence of a witness"

{Tape: 1; Side: A; Approx. Time Count: 45 min.}

and other phrases in SB 4. He also mentioned the omission of "notification of parents," a phrase which should be added.

Eric Feaver reminded the Committee MEA represented over 10,000 Montana public school employees and its position had always been corporal punishment is inappropriate in our public schools. He said SB 4 invites confusion among parents, teachers and entire school communities regarding the authority of public schools.

John Malee, Montana Federation of Teachers, gave his written testimony. **EXHIBIT 3**

Andree Deligdisch, Mental Health Association of Montana, gave her written testimony. **EXHIBIT 4**

Spencer Sartorius, Office of Public Instruction, said he wanted to reconfirm the OPI staff's commitment to safe schools; however, OPI did not believe SB 4 would promote that safety. Rather, inflicting corporal punishment would undo the model of non-conflict behavior promoted in many schools. He said health and learning would suffer whether students feared the playground bully or school adults. **Mr. Sartorius** reminded the Committee of the school and personal liability resulting from abuses of corporal punishment. He ended his testimony by voicing support for previous testimony by the opponents of SB 4.

Sharon Hoff, Montana Catholic Conference, expressed opposition for SB 4. She said they understood the disciplinary concerns in our schools but the learning of appropriate boundaries and behaviors began in the home.

Lance Melton, Montana School Boards Association, School Administrators of Montana, spoke in opposition of SB 4. He said MSBA and SAM was involved in the repealing of the law in 1991 and their position on the matter remains the same today as then. He agreed with **Mr. Feaver's** concerns on the definition of the terms in SB 4 because they were subject to personal interpretation. He expressed sympathy for the concerns expressed by **SEN. EMERSON** but his agencies believed there were other ways to deal with the problems.

Kate Choleva, Montana Women's Lobby, expressed agreement with previous testimony. She said children were taught through the actions of adults and corporal punishment would enforce the idea control could be achieved through violence.

Larry Fasbender, Great Falls Public Schools, said when corporal punishment was inflicted on the student and there was no parental agreement, the reinforcement of the behavior correction would not be done at home. Also, corporal punishment would be inconsistent with the teaching of non-violent conflict resolution. He suggested the key to classroom discipline was parental support of what happens there. **Mr. Fasbender** also reminded the Committee of the societal changes during the past 150 years, i.e. it is now very litigation-oriented. He said he was not aware of a request for SB 4 coming from schools or educators because they found appropriate ways to deal with school discipline, i.e. the existing law works.

SEN. DEBBIE SHEA, SD 18, Butte, said she had taught school for 24 years so she was part of that 150-year history when corporal punishment was allowed. She asked the Committee what educational purpose corporal punishment could serve, explaining usually

not used in the Catholic schools. She further explained they used other ways of discipline, i.e. Catholic schools could permanently expel students who were perpetual discipline problems. **SEN. SPRAGUE** then commented **Ms. Hoff** had been present at many meetings of the interim Juvenile Justice Subcommittee and asked for her verification of his perception of what have been heard at the meetings; namely, early intervention, or early establishment of discipline and consequences, was the key to a youth staying out of trouble. **Ms. Hoff** agreed with his perception but said she could not remember references to corporal punishment as a disciplinary action.

SEN. GAGE commented about the exploding corrections problem in Montana and felt it was directly related to the time when the restrictions were enacted regarding the method of discipline. He asked for input from testifiers. **Mary Sheehy-Moe** answered she did not feel there was a direct correlation between the two. **SEN. GAGE** countered he did not feel it was the only cause, but was definitely part of the problem; however, if some of the causes could be eliminated, perhaps the immensity of the correctional budget could be reduced. **Kate Murdieck** said the Child & Family Services Division would be giving future testimony which correlated child abuse, juvenile delinquency and further adult incarceration, i.e. there was a definite correlation among the above-mentioned; however, there was none between the non-use of corporal punishment as a discipline technique and growing juvenile delinquency. **SEN. DEBBIE SHEA** commented in many cases, schools were safe havens for the students and if they encountered the same environment they left in the morning, the result could be counterproductive.

SEN. JENKINS asked **Wayne Buchanan** if SB 4 would require each school to enact or enforce corporal punishment, or would it be at local school board discretion. **Dr. Buchanan** said it was a local decision, and even if the local school board adopted SB 4, individual teachers or administrators would not be required to use corporal punishment.

SEN. STANG asked **Lance Melton** if MSBA received inquiries regarding the ability to use corporal punishment in schools. **Mr. Melton** said MSBA was originally in favor of repealing the law because they did not see it as a solution for unruly discipline behaviors, and they were still in favor of their original decision.

SEN. GAGE asked **Mr. Malee** what he meant in his testimony when he said those who would not abide by the rules must suffer the consequences, and what he proposed as consequences when nothing else was working. **Mr. Malee** answered such decisions should be left to the local school districts.

Closing Statement by Sponsor:

SEN. EMERSON asked **SEN. GAGE** to share an experience with those in the room. **SEN. GAGE** said he had met with a group of veterans on Veterans Day to talk about upcoming legislation, including a coming bill on public spanking and this one on reinstating corporal punishment in schools when other forms of discipline were not working. The response from the veterans was an explosion of applause to show approval. **SEN. EMERSON** said that was basically the same reaction he got when he mentioned SB 4. He explained corporal punishment was not physical violence; rather, it was a spanking or taking a student by the arm to set him or her down. He also addressed the idea that "violence begets violence" by citing a publication from the Family Research Council which said "childhood aggressiveness has been more closely linked to maternal permissiveness and criticism than to abusive physical discipline." **SEN. EMERSON** also suggested it was necessary to teach respect for authority, and schools could help parents accomplish that. He declared he would leave the bill alone if the system was working, but it was not; in fact, society was continuing its course of decline. He said SB 4 might not correct all that was wrong with society, but it would be a big step in the right direction.

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ADJOURNMENT

Adjournment: The meeting adjourned at 2:40 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

DT/JS