

MINUTES OF THE MEETING
EDUCATION COMMITTEE
MONTANA STATE SENATE

January 18, 1977

The fifth meeting of the Senate Education Committee was called to order by Senator Chet Blaylock, Chairman, on the above date in Room 402 of the State Capitol Building at 11:00 o'clock A. M.

ROLL CALL: All members were present with the exception of Senator George McCallum who was excused.

CONSIDERATION OF SENATE BILL No. 62: Chairman Blaylock called on Senator Larry Fasbender to present his testimony regarding Senate Bill No. 62.

Senator Fasbender: I'm not going to take the Bill and go through it point by point as very little in it can't be explained briefly and simply. I'm sure everyone is aware of Senate Bill 62 which takes the legislative duties and responsibilities that have been given to the State Superintendent's office and assigns those duties and responsibilities to the Board of Public Education. The rationale for this is something that I have not arrived at just on a whim or over a short period of time. I will give you some background as to the office and history of what has happened in other states.

At the present time, the office of the Superintendent of Public Instruction has approximately 162 people working for it. By 1979, it is projected that office will have in excess of 270 people. The funds that are administered by that office in 1977 are approximately \$132,000,000.00 and by 1979, be in excess of \$155,000,000.00. Breakdowns of that are available.

Beginning in the early 1930's, or back as far as the 1900's, a look at the situation of an elected, versus an appointed, superintendent shows 31 of the superintendents in the United States were elected, 7 were appointed by the governor, 3 were appointed by a state board of education, 3 by a general assembly and 1 by ex officio designation. That pattern has definitely been changed over the past 70 years. By 1967, 22 superintendents or chief school officers were elected by the people, 4 were appointed by the governor and 24 were appointed by a state board of education. The number now of chief state school officers that are elected by the people has diminished to 17 or 18, depending on which book of statistics you look at. The trend is continuing; and I'm sure there will be a considerable amount of argument whether or not Montana should follow a national trend or whether we should ape the policies of other states. I would point out the reason for introducing SB 62 was not just following trends. It is encumbant upon the legislature to take a look at a situation where there has been a trend in other areas to see what has caused that; to also explore the possibility in Montana of alternative forms of handling education; and to take a look at the system as we have it. When Harriet Miller was Superintendent of Public Instruction, she issued biennial legislative reports incorporating her recommendation, including that the office should be non-partisan and pointed out that Montana would some day face a decision between an appointed or elected superintendent of Public Instruction; but she did not recommend it.

In 1972 the Constitutional Convention took a look at an appointed -v- elected Superintendent of Public Instruction. A good deal of information was developed and a system was set forth in the Constitution for a Board of Education to be split into two boards, a Board of Public Education and a Board of Regents. Difficulties coming out of that Constitutional Convention were the way it was set up and the way the legislature responded to the mandate to establish educational systems in the state that we now have split between the executive branch of Superintendent of Public Instruction and the policy-making board, a legislative board, a problem that, in my opinion, is going to become unsurmountable. If the chief school officer in the State of Montana which is an elected position chooses to ignore policy established by the Board of Education, as had been done in some cases in the past, there is absolutely no recourse the State Board of Education can take to change that. In looking at problems of appropriations, etc., I felt that there were two alternatives in which that could be resolved. Eliminate the Board of Public Education, do away with their policy-making authority; or you can do what the Constitution mandates the legislature to do, take a look at those policies and duties that are assigned to the State Superintendent and assign those in a different area. I have chosen that second alternative in introducing SB 62.

Whether we should have a long list of elected officials when we go to the polls, or whether we should give that authority to appointed people is one that is going to continue to rage and may not be a too popular item right now. However, I think it's the duty of the legislature not just to follow blindly the tradition that has been established in the years past, but to take a look at alternative forms of managing state government, especially education in the State of Montana.

It was said by Dolores Colberg when she appeared before the Con-Con, that we don't feel there are Republican children or Democratic children - only children in the State of Montana. The argument can be made that electing a partisan school superintendent does not necessarily involve her in politics as far as educational decisions are made. I happen to disagree with that. Decisions relating to education can be political as demonstrated in the case of the Montana School Association. Sports are a very popular thing in the high schools, in their curriculums, and getting involved in something so dear to the hearts of so many people is a difficult thing politically to do, as I'm sure members of this Committee are aware. The fact that you don't want to face up to those problems only exacerbates the problem; it does not help either Republican or Democrat children. One argument we make is if you allow people to elect their representatives, you have that direct link; if they can do it on an elective basis, it will help educational opportunities for children. When you have so many elected representatives that the people are not in any position to make an informed choice, you no longer have democracy. Democracy without an informed citizenry does not accomplish the aim that our founding fathers originally set forth in the Constitution.

A problem on a Bill such as this is you get more involved in discussing the people who held the office rather than the theory and philosophy behind how education should be dealt with. This particular piece of legislature was not introduced or brought to me by anybody else. It has nothing to do with people who presently hold the office or who have held the office in the past. The basis on which the Bill should be debated, whether the theory of education of appointed officials, through an appointed state board, can better serve the needs of education, can provide the leadership, can bring out the ideal, the creativeness, the type of things that are good for education in the State of Montana. It's my opinion, and I think the

opinion of a lot of people who are in the education field at the present time, that an appointed process is going to help education, it's going to help people and it's going to help children.

There being no further proponents of the Bill, the Chairman called for opponents to SB 62.

Georgia Ruth Rice, State Superintendent of Public Instruction, testified in opposition to the Bill, to the effect that she suggested considering some historical points; for nearly a century, 44 legislative sessions and 2 Constitutional Conventions of this state, confidence in carrying out duties and responsibilities assigned to the superintendent have been unfailing. The wisdom of our forefathers who were legislators like you are and who were in our Constitutional Conventions surely must have some credence to this group. You're standing in a position now to dismember, dissaray and disjoint what those people said; you have an opportunity to tell the people of Montana who voted in the last election that their vote is now not counted for an individual who has duties and responsibilities to them, the electorate of Montana and their educational system. We argue all over Montana that it is important to exercise your right to vote, it is your voice in government. You are now faced with taking away that choice.

It is a paradox at this time when we need more voice in government and are clamoring for more voice in government that you are here about to take away a voice in government, and most important, taking it away from even those who have not yet voted and are at this time in class rooms in our state. The trend of an appointed state official would preclude, then, that Montana should also have sales tax, annual sessions and many things other states have. Do we in Montana acquiesce to the legions in other states; is our system of education poor because we have a voice in the elected officials who determine educational destiny?

We have an elected, responsive official to the people of this state; if that individual has no duties or responsibilities, where do they go; who do they ask - an autonomous body that is appointed, which in turn, appoints a commissioner or chief state school officer - who, as an appointed official must, first of all, obviously, be an employee; and, secondly, responsive to the needs of students? I am speaking for our students and I know there are others who have taken time to be here, so I will take no further time; but I will certainly be available for answers.

The Chairman then stated that due to the large number of persons waiting to testify, the Committee would ask the statements to be as brief as possible and not repetitive in order to allow everyone a chance to speak in the time remaining.

William A. Burkhardt, of Helena, delegate to the Constitutional Convention of 1972, on the Education Committee, testified in opposition to SB 62, a copy of his written testimony being attached to these minutes: and, in essence, was to the effect that alternative forms of school administrators were explored and he contends this Bill would be in violation to the language and intent of the Constitution and that the Education and Public Land Committee felt strongly about having an elected superintendent.

He further stated the majority of people also want to elect the superintendent to have that direct link with the state education department.

Maurice J. Hickey, representing the Montana Education Association, testified in opposition to SB 62. A written statement is attached summarizing the MEA's position that an appointed board of public instruction is at the whim of the governor, to whom they must answer; that the chief education officer should be an elected official and a direct link to the people; and that the 1974 legislature recognized the Executive Reorganization Act of 1971 was incompatible with the constitutional and statutory structure for governance of Montana's educational entities.

Gladys Vance, of Great Falls, representing the Montana Parent Teachers Association, presented testimony in opposition to SB 62, a written copy of which is attached; and, in summary states to the effect that the PTA organization is primarily interested in what is best for the children; having an appointed chief state school officer has not alleviated school administration problems in other states; and through the right to vote, Montanans have a voice in their government allowing for an official responsive to the people in the field of education.

Richard Colberg, Helena, former Senator from Missoula, testified as a citizen in opposition to SB 62. The essential question before you is a constitutional question which should be put on the ballot to let the people decide. The next question if one of efficiency, whether or not changing from an elected to appointed is really going to do any good. Education generally has a lot of problems whether under an appointed system or an elected system. Just the structure alone of appointed or elected is not going to address the problems legislators previously wanted to address, efficient delivery of services to the students. Education is a sacred institution in our society and to the extent that we appoint more and more boards or proliferate division of lines of communication, we're going away from a very basic premise that our society operates on. I want to bring to this group a question of value: do you really believe in your hearts an appointed board is more democratic or less democratic. You can have an appointed or elected person in that office who might be very inefficient. I'd say in the last 15 years in my experience in education, I've seen the proliferation of bureaucracy at the administration level in every high school in Montana of major size. People who administer high schools under the auspices of the School Board are appointed and they have proliferated in size. The question you must come down to is if a board is better than an elected official, and I'm on the side of an elected official as I believe in democracy.

Carl Knudsen, Rudyard, Montana, Superintendent of Schools. I don't have a big title and I don't represent a lot of people; I think the sign on the highway at Rudyard says, "596 nice people and 1 old sorehead", and I hope you folks won't think they sent the sorehead up here. Our local School Board felt strong enough in opposition to this Bill to send me. In the past nine years that I have been an administrator of one of the smaller schools in the state, and the majority of schools are small, we have had excellent service from the State Department of Public Instruction; the Superintendent had not tried to push anything on us because that turns towards dictatorship, not a source of information. I don't recall hearing anything from the State Board of Education, no offense intended at all. As far as the research we've done of the State Board meetings, it appears out of the 2-day meetings they have about 1 1/3 to 1 1/2 days are spent on vocational education, the other half day on consideration of high school and elementary schools around the State. How much time have they spent considering public education representing

about 170,000 students as opposed to the 5,000 vocational ed students should be considered. During the course of your deliberations and your wisdom as a Committee I hope that you do take into consideration some of us little guys that are trying to do the job. We have representatives and senators going back in their home districts and asking, "are you getting enough vocational ed and special ed funds?" Some of the procrastinating administrators we have in the field who are serving you at the local level say "we can't get any"; that's the easiest way instead of going through the paperwork to get it. State departments now spent considerable money and time on small schools that do not have vocational education available to them the same as in larger schools, but when larger schools put on the pressure, they already have the vocational centers in their towns because numbers speak. Going back to our small districts, we have a lot of kids that are isolated. Our State Superintendent in the past few years has tried to serve the isolated areas in Montana the best they can. I think this bill would harm the small schools as would 69 because of the problems faced when getting service out of an appointed Board of individuals. I would like to see this bill given a proper burial.

Ike Knudsen, Glasgow. Representing people from Phillips, Valley, Daniels, and Roosevelt Counties; people have been calling me for the last several days, not really an organized group, time didn't permit. Neither was there time to send letters in opposition. I'll mention only one major point: they feel an executive appointed by an appointed board whose members are appointed by the governor is just too many layers of insulation between the local people. They asked me to respectfully request you to not pass this Bill.

Burl Winchester, Bozeman. During the last 12 months, I have been requested to speak to 36 schools and colleges in this area and to a comparable number of businesses; the primary concern has been how to decentralize or share administration so there is a higher satisfaction down at the working level. Also, how do you open up communication from the top to the bottom. I feel schools are a tremendously sensitive issue for people who live out at the grass roots. As to the trend to centralize and appoint rather than elect, we have just in the last two years witnessed a good deal of the consequences of that with Watergate. People are in a mood to determine what's going on at their level. As a private citizen, I would raise the question is there less politics in schools where its all appointed and its out of the reach of the public, or whether they have a chance to act on it every time they go to the polls? To remove schools, by another layer of people away from the tax payers' decision is not the intent of the Constitutional Convention. About better schools, my phylosphy is that the people can be trusted. I'm glad that we have representatives from out there under the direct control of we voters at the local level. I agree that an informed electorate is essential; my contention is that they are better informed if they can trace the decisions to one person than if they trace it into the catacombe of bureaucracy. The last point is that I think this is an untimely kind of thing now, with people fearing government and wanting more control than they did five years ago. I would be pleased to see this Bill killed in committee.

Jim McGarvey, representing the Montana Federation of Teachers, AFL-CIO, presented testimony in opposition to SB 62, a copy of which is attached, to the effect that the Board of Education regularly meets once a month, whereas, an elected Superintendent is on the job at all times. Secondly, it was brought out there isn't always agreement between the two offices, but as far as education is concerned, a different approach and different ideas and exposure of this type of an education to students will result in a far better educational system. The checks and

balances of the present system is desirable.

Rev. Leland Wendland, Helena. Speaking against this first of all because I have a number of people I touch each day who are working for education who waste a lot of time wondering every two years what's going to happen. Whether a person has a formal education or not, I think it very important that we watch the ability to vote. Three years ago, I was in another state in which they had the same battle to have an appointed official. The following election, the amount of votes cast was 12% less than before. If there is one area I can identify with today, its my children coming back from school and then I have an opportunity to vote in the next election regarding what I feel. If we remove one more person to be voted on, there will be that many less votes. Outside of the governor of the state, the Superintendent of Education genders more feeling than anybody else and I identify at that point because of my children, with my taxes. I don't think there is any way you become non-political, whether you're appointed or elected. As we appointed more positions in the church as it got bigger, even though I think we did a better job, we lost the interest of people. So for the State of Montana, don't lose the interest of the people.

Sharon S. Finney, Great Falls, presented her testimony in opposition to SB 62, in writing, a copy of which is attached, and was to the effect that the public should have the right to exercise its vote and have direct access to an elected official.

Roy C. White, Victor, Montana, Trustee of School District #7, Victor and Ravalli County Democratic State Committeeman, submitted testimony in opposition, copy of which is attached, stating in his opinion as a teacher, this Bill is not in the best interests of the children nor education in general.

Dave Hull, Missoula, student at Hellgate High, representing Montana Youth Lobby, submitted testimony in opposition to SB 62, a copy of which is attached, to the effect that after trying to contact a school board and being advised one member of a board cannot act alone, he subsequently contacted the Superintendent of Public Instruction who was responsive immediately.

Linda Bruner, Conrad, Montana, County Superintendent, testifying in opposition to SB 62 asked the Committee to kill this Bill for the reason that they need the representation and a voice of the people, someone the people can go to and get a response.

Jim Romsom, Livingston, Montana, Chairman of the Steering Committee of the Montana Conference on Pupil Transportation, not speaking for the entire organization as time did not permit. He is interested in problems of transportation as a bus driver for 18 years. I go to the Superintendent of Public Instruction and have for the last several years and I've been able to get help, information and whatever I need and get assistance with what we're trying to do. We've had a tremendous movement ahead in transportation for Montana in the last few years, all this through the Superintendent's Office. Also, if I am able to vote for a person, I want that right as an individual.

There being no further opponents, the Chariman asked for a closing statement.

Senator Fasbender: Evidently a lot of people have traveled a long way and given this Bill a lot of thought. The legislature is a forum for debate, a place where we can come to discuss alternative means of running the government. Mr. Burkhardt said this Bill would be declared unconstitutional if it were to pass. I was not a member of the Con-Con; however, I did spend a lot of time studying all that went on at Con-Con

where the State Board of Education was concerned and where the Superintendent was considered as an elected position. I don't think Mr. Burkhart or myself are in any position to interpret, as individuals, what was meant by the members of Con-Con, but we can go back to read what they said when they passed the Constitution and that was very clear. The Constitution gave the legislature the authority to prescribe the duties and responsibilities of the Superintendent of Public Instruction. That is something the legislature is charged by the Constitution to do. It's not a question of circumventing the Constitution by taking those duties and responsibilities away, because the Constitution did not give those duties and responsibilities to the Superintendent, the legislature did. SB 62 is very constitutional and would have no problem before any court in the state. I would read from the report of the Con-Con, Education and Public Lands Committee proposals: "The committee feels the duties of the Superintendent should be legislatively prescribed to allow for changing conditions and possible alteration in the relationship between the Board and the Superintendent." People have brought up that this is an attempt to circumvent the Constitution; it is an attempt to carry out the duties prescribed by that Con-Con and approved by the people of the State. One of the individuals representing the PTA said that we have to forget the mistakes of the past; I would hope after Watergate, none of us would forget the mistakes of the past. As a matter of fact, I don't know how often I've heard it said that history repeats itself, and the reason that it does is we forget about history and forget needs change with time. I would hope this legislation be considered on its merits, on what the facts are and what the situation is.

Senator Mathers posed the question: Do you know if the MEA was polled as to their position on this Bill or was it the decision of Maurice and his staff?

Reply: The MEA had a conference call and the executive board made a decision.

Question: Mr. McGarvey, did you poll your members?

Answer: No it's a policy statement.

Question: PTA?

Answer: It took the position on its legislative platform wherein we called for believing in an elected officer.

Senator Smith: Senator Fasbender's statement that he would predict considerable increased expense in 1979, much of the increase after checking with the Superintendent's Office I find is special ed funding and by legislative action and federal dictate. Isn't some of the problem we're forcing upon that office, passing legislation that specifies special ed, vo-ed, and also the federal programs?

Senator Fasbender: Perhaps you misunderstood the point of my contention the the Superintendent's Office is going to continue to grow, the funds handled have grown dramatically in the 88 years. It has grown astronomically, the point being as that change took place, the legislature did not make any attempt to change the process whereby we selected the Superintendent, we did not increase the qualifications for that office; the legislature has not really reflected on maybe there are better ways of handling the functions that deals with that number of people and that amount of money, other than by an elected official.

Senator Smith: This leads up to the other question. We've just experienced executive reorganization: can you tell me one appointed bureaucracy or how we've decreased the number of bureaucracies once this power has been given to the governor under that act?

Senator Fasbender: You're saying that the cost of government is continuing to increase. I have no argument with that. I'm a farmer and the cost of farming has not gone down either in that same period of time.

Smith: We would have to compare the increase in the number of employees and the costs in the Superintendent's Office, then of all the appointed boards and then the growth in that area. I've done some checking and you can't believe how this has grown and how they are insulated. I have made calls to various departments and they pass it right on down the line; actually, I call it the buck-passing process.

Senator Fasbender: Is that a question?

Senator Smith: I guess it's a question and a comment. I'd like to know the departments that have grown, how the bureaucracy has decreased in size and then how the costs compare with the increase as far as the Superintendent's office, both the employees and costs.

Senator Fasbender: That's a debate we can probably argue somewhere else. The point is still being missed. If the Superintendent's powers and duties were transferred to the Board, there would be no change in the number of employees that would be required, as far as administering education in the State; it would not change the growth of that office. Education is going to have certain demands to function as far as the State is concerned. I do think management and leadership would be much better under an appointed board where you could have a better process of selecting the chief state school officer of the State of Montana.

The Chairman asked for any further questions; there being none, the meeting was adjourned at 12:30 P. M.



Chet Blaylock, Chairman

ROLL CALL

EDUCATION COMMITTEE

45th LEGISLATIVE SESSION -- 1977

Date Jan. 18, 1977

DATE January 18, 1977COMMITTEE ON EDUCATION BILL NO. SB 62

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Ray C. White	myself as an individual	✓	
Barbara J. White	"	✓	
Robert J. Feeney	"	✓	
John J. Flynn	"		
Lytle Threlkeld	Montana PTA		
Leona Blaylock	League of Women Voters		
Leonard Blaylock	League of Women Voters		
Virginia Lee	Dept of Public Inst.	*	
Tom Rorison	Montana Conference on Pupils.	X	
Carl Strandgren	Rudyard Public Schools	X	
Leonard Strandgren	Mont. School Bd. Assn.		
Val M. Matress	myself as an individual	✓	
Marion C. Matress	New York Times Correspondent	✓	
Spalt J. Shaffer	Helena High Rugg - assistant	✓	
Spalt J. Shaffer	USA		
Spalt J. Shaffer	Self	✓	
Amelie Wright	OP		
Forma F. Denny	County Superintendent	✓	
Sethly Beamer	myself		
Larry Flanagan	Self		
Erland Peden	M. S. C. I. 4		
Blake J. Wordal	Governor's Office		
Carl Johnson	Board of Public Education		
W. C. Clegg	Larry Zabender		
Tom Bartlett	School Admin	X	
	myself		
	Self		

DATE January 18, 1977

COMMITTEE ON EDUCATION

BILL NO. SB 62

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Rose Geary	LWV	✓	
Patricia J. Price	Garfield Co. Superintendent		✓
Loyd J. McDowell	Schol for the Deaf & Blind		
✓ vs Paul Eichstaedt			
Kitty Sales	Montana Farmers Union	✓	
✓ Bernice McCloskey			
✓ Jimmy Cheng	Myself	✓	
✓ Rita R. Blonk	League of Women Voters		✓
✓ Kelly	School Dist 1 - Missoula		
✓ Gayne Buchanan	Montana School Boards		
✓ in Oren	School Dist #1 Missoula	APPROVED	
✓ Agnes Peterson	Retired Teacher - Corvallis	5-5 ✓	✓

NAME: Willie A Borchardt DATE: _____
ADDRESS: 530 Hazelgreen place
PHONE: 419 20735

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: SB # 6 A

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: Was Delegate for
Constitutional
Delegate Const
Convention 1972

Education Committee

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

The following testimony is presented by William A. Burkhardt of Helena, Montana. Mr. Burkhardt was a delegate to the Constitutional Convention in 1972. He was a member of the EDUCATION AND PUBLIC LANDS committee. This committee developed the proposed article X of the new constitution, entitled..."ARTICLE X EDUCATION AND PUBLIC LANDS....

I am here to speak in opposition to Senate Bill # 62.

I am convinced that any careful reading of the proceedings of the Montana Constitutional Convention of 1972 will make it very clear that Senate Bill #62 is a violation of both the language and intent of Montana's Constitution.

Two articles of the new constitution address the matter of the Superintendent of Public Instruction in definitive ways:

ARTICLE VI THE EXECUTIVE

Section 1. Officers. (1) The executive branch includes a governor, lieutenant Governor, secretary of state, attorney general, superintendent of public instruction, and auditor.

(2) Each holds office for a term of four years which begins on the first Monday of January next succeeding election, and until a successor is elected and qualified.

(3) Each shall reside at the seat of government, there keep the public records of his office, and perform such other duties as are provided in this constitution and by law.

Section 2. Election. (1) The governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor shall be elected by the qualified electors at a general election provided by law.

(2) Each candidate for governor shall file jointly with a candidate for lieutenant governor in primary elections, or so otherwise comply with nomination procedures provided by law that the offices of governor and lieutenant governor are voted upon together in primary and general elections.

Section 3. Qualifications. (1) No person shall be eligible to the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, or auditor unless he is 25 years of age or older at the time of his election. In addition, each shall be a citizen of the United States who has resided within the state two years next preceding his election.

(2) Any person with the foregoing qualifications is eligible to the office of attorney general if an attorney in good standing admitted to practice law in Montana who has engaged in the active practice thereof for at least five years before election.

(3) The superintendent of public instruction shall have such educational qualifications as are provided by law.

Section 4. Duties.

(5) The superintendent of public instruction and the auditor shall have such duties as are provided by law.

Section 6. Vacancy in office.

(1).....

(2) If the office of secretary of state, attorney general, auditor, or superintendent of public instruction becomes vacant by death, resignation, or disability as determined by law, the governor shall appoint a qualified person to serve in that office until the next general election and until a successor is elected and qualified. The person elected to fill a vacancy shall hold the office until the expiration of the term for which his predecessor was elected.

Section 7. 20 Departments. All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive branch(except for the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor) and their respective functions, powers, and duties, shall be allocated by law among not more than 20 principal departments so as to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a department.

ARTICLE X EDUCATION AND PUBLIC LANDS

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Section 4. Board of Land Commissioners.

The governor, superintendent of public instruction, auditor, secretary of state, and attorney general constitute the board of land commissioners. It has the authority to direct, control, lease, exchange, and sell school lands and lands which have been or may be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be provided by law.

.....

Section 8. School District trustees.

The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.

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.

When the executive article of the constitution was under discussion in the convention...the matter of an appointed versus an elected superintendent of public instruction was thoroughly explored. The convention voted for an elected superintendent. The following reasons were stated for this decision:

"We do not want to disenfranchise the people of Montana of their sacred privilege--their right to exercise the freedom of choice in the elective process...."

"The state superintendent of public instruction is the major state educational officer and as such should be elected by the people. The selection of the superintendent should be protected from undue political influence by making her directly responsible to the people..!"

When the Education and Public lands article was presented to the convention...the following report was part of the discussion:

"It is fully expected by the committee that the office of the superintendent of public instruction will be provided for in the executive article. A majority of the committee feels strongly that the superintendent of public instruction should be elected, and the education committee has structured the education article with this notion in mind. An elected superintendent provides a necessary direct link to the people which is important to the educational system."

A careful reading of the sections dealing with the board of regents and the board of public education indicates that while the board of regents is specifically authorized to appoint its own executive officer, the board of public education is not given that authority.

Other reasons for the election of the superintendent of public instruction included the following:

(1) A popularly elected superintendent more directly reflects the wishes of the people.

(2) An elected superintendent is directly accountable to the electorate.

(3) An elected superintendent holding a constitutionally established office can work directly for the educational needs of the state, whereas one appointed by a board or the governor may find himself competing with other agencies and departments for priority.

(4) A single elected superintendent of an educational system combines the responsiveness of the elected official with a unified leadership lacking in the alternate plan of electing members of a board of public education.

(5) An elected superintendent allows for flexibility of policy with changes in administration through the elective process.

Another concern which was stated on the floor of the constitutional convention:

"Placing all Montana's governmental administration and control directly under the governor and appointed department heads is being promoted in the name of efficiency and economy. But government needs to be more to its constituents than efficient and economical--it needs to be responsive and responsible to the people it represents..."

Section 7. of Article VI of the new constitution makes very clear what had already been established by vote of Montana's electorate in 1970 on the issue of "executive reorganization" Section 7. states:

"20 departments. All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive branch (except for the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor) and their respective functions, powers, and duties, shall be allocated by law among not more than 20 principal departments so as to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a department."

This was ratified by Montana's voters on June 6, 1972.

If there is a desire not to have a superintendent of public instruction as an elected and functional officer --it would seem much more logical to propose a constitutional amendment to that effect---and let the people amend the constitution if the arguments for this issue are convincing to them.

Senate bill # 62 tries to circumvent the intent of the constitution by abolishing all powers of consequence which now are entrusted to the superintendent by the vote of the electorate. When the convention delegates voted that the duties of the superintendent of public instruction be "provided by law"...they were mindful of the need for adapting to changing conditions...but they also intended a functional and active executive leadership by the superintendent of public instruction.

The constitutional role of the board of public education is a limited one. It does not have the authority or control that the board of regents has over higher education. That fact is apparent to anyone who will take time to read that section of the constitution. The decision to remove the word "control" from the definition of the role of the board of public education was partly to assure that local school districts and their boards of trustees would have continuing powers of supervision and control over local schools. But it was also assumed that the superintendent of public instruction and staff would go on functioning as the state's chief executive officer in elementary and secondary levels of education.

The board of public education is given a general policy supervision role by the constitution. Making it an appointive board was weighed against the alternative of making it an elected board. The decision was that it would be difficult for the electorate to know seven people well enough to determine the quality of input they might bring to the board...and that since we had authorized an elected superintendent...this allowed a direct public influence to be made. Making the board of public education appointive by the governor over staggered terms allows his influence to be felt over a period of time...but in no way was it the intent of the constitutional convention to give the administrative direction and control directly to the board of public education. What was envisioned was a consultative and advisory capacity--based on the assumption that a working balance between the superintendent of public instruction the board of public education and local school districts could be achieved--as it had in fact been doing for a number of years at the time of the constitutions writing.

If in the interim there has been a struggle for power..that may in the long run help define the most effective means of working our educational program out...but it is a short-circuiting of the process to try in a legislative bill to override what has been established several times in the last few years...namely that the majority of people in Montana want to elect the superintendent of public instruction...and they want that office to function in more than ceremonial or window-dressing ways.....

I am convinced that Senate Bill # 62 would be declared unconstitutional in a court case...and that a DO NOT PASS stamp should be given it by this committee.

NAME: Maura J. Hickey DATE: 1/18/77

ADDRESS : _____

PHONE: _____

REPRESENTING WHOM? Montana Ed. Association

APPEARING ON WHICH PROPOSAL: SB 62

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? 1

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

OPPOSITION STATEMENT TO SENATE BILL #62

I am Maurice J. Hickey, Executive Secretary of the Montana Education Association, appearing in opposition to Senate Bill 62. The authorization came from executive committee action on January 15, 1977.

It is our position that allowing the appointment of an administrative officer by the board of public education would add another layer of insulation between the public and the chief educational officer of the state.

The appointed board of public education may or may not be responsible even to the Governor. They are appointed for a term of seven years with one appointed each year so the terms are staggered. Under normal circumstances it would only be in the final year of a Governor's term that a majority of the board would have been appointed by the individual in office.

Therefore, who does the state board of public education answer to?

During the constitutional convention this subject was aired during the discussions on both the executive Article VI and Article X, the education article.

A direct quotation from the majority report on the education article presented to the constitutional convention reads as follows: "A majority of the committee feels strongly that the superintendent should be elected, and the committee has structured the educational article

provides a necessary direct link to the people which is important to the educational system."

The legislature in 1974 recognized that the Executive Reorganization Act of 1971 was incompatible with the constitutional and statutory structure for governance of Montana's educational and cultural entities.

In 1974, when we began annual sessions of the legislature under the new constitution, the following law on executive reorganization was passed:

"82A-501.2. Intent of act. It is the intent of this act to comply with the spirit of executive reorganization and yet to acknowledge that departmentalization as set forth in the Executive Reorganization Act of 1971 is incompatible with the constitutional and statutory structure for governance of Montana's educational and cultural entities."

It was obvious at that time that departmentalization wouldn't work under our constitution *for constitutional officers.*

The Montana Education Association believes we do not need another level of government operation between the people and public education.

Therefore, we recommend that the bill be killed in committee.

NAME

WILLIAM L. HERC

Bill No.

ADDRESS

1000 University

Date

WHOM DO YOU REPRESENT?

Myself

SUPPORT

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I would like to testify
on behalf of the opponents
to S.B. 62.

Frank J. Clegg

Richard J. Clegg

NAME: Janet L. Clark DATE: January 18, 1977

ADDRESS: 3509 5 Ave S - St. Paul

PHONE: 652-0026

REPRESENTING WHOM? Montana PTA

APPEARING ON WHICH PROPOSAL: Senate Bill No. 62

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: see attached testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

January 18, 1977 - Testimony before Senate Education Committee by Montana State PTA
I am Gladys Vance, President of the Montana Congress of Parents and Teachers, a duly organized, incorporated entity under the laws of the State of Montana representing over 9,000 parents and teachers throughout Montana. We are the only organized parent group which includes as a part of our structure lobbying for education not only in Montana but Washington D.C. as well. Our business is children, their education and welfare. We answer only to the question of "What is best for our children?", and particularly in the field of their education. We believe that what we do to the child we do to the world.

It is apparent that the people of Montana cherish their right to vote for the person who will guide and administer education in their State for the next four years and this is demonstrated by the numbers of Montanans that voted in the last election - only a little over two months ago a resounding number of over 300,000. The governor's race only exceeded this number by some 15,000.

Those states who have sought to eliminate the problems facing education by the same process which you are trying to pass and have gone to an appointive chief state school officer are still experiencing the same kinds of problems they had when it was elected and representatives of the people say "it just isn't doing the job". However, most of these states have at least an elective Board of Education thereby allowing some sort of responsiveness to the people.

The Office of the Supt. of Public Instruction should have the sole responsibility of meeting the needs of children in education and not have to be accountable to an appointive board who is itself appointed. We are indeed narrowing our horizons. We must not fall victim to pressures who claim education as their scapegoat for the inadequacies found in our society. Rather, we must forget the mistakes of the past - press on to greater achievements in the future and strengthen and build

what we have. If you believe in the democratic process, the foundation of this great nation, which provides for a system of checks and balances, and gives its public a voice in the decision making process - and if you believe we have a future invested in our youth and their education then you will kill Senate Bill 62. Therefore it is the position of the Montana PTA and we urge you as members of the Senate Education Committee to kill SB62. The Office of the Superintendant of Public Instruction is accountable to the people of the State of Montana as intended by our Constitution. We believe that this office must not be stripped of its powers and duties in order to insure a high quality education for all children in Montana. Our future - yours and mine - depend on it. Thank you.

NAME: Carl Knudsen DATE: 1/18/77

ADDRESS: Rudyard, Mont. 59540

PHONE: 355-2935

REPRESENTING WHOM? Rudyard School District

APPEARING ON WHICH PROPOSAL: SB69

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: THE Knudsen DATE: 1-18-77

ADDRESS: 65 Aberdeen Glasgow West

PHONE: 228-2694 228-8324

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: SB 62

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS : _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: BURL VINCENTER DATE: Jan. 18, 1977

ADDRESS: RR 4 Box 13 Bozeman

PHONE: 537-7965

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: Senate Bill 62 - Education Committee

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: I am concerned about further
reducing control of public schools away
from those whose children attend them
like pay for public education.

At a time when our nation has
suffered impudent manipulation from
unaccountable public officials, it is
about time to further centralize
government control and at greater cost.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John H. Givens DATE: 1-18-76

ADDRESS: Box 1246

PHONE: 406-212-3

REPRESENTING WHOM? Montana Federation of Teachers

APPEARING ON WHICH PROPOSAL: SB 62

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: Submitting written testimony

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MONTANA STATE FEDERATION OF TEACHERS

AMERICAN FEDERATION OF TEACHERS
AFL-CIO



P O. Box 1246

Helena, Montana 59601

(406) 442-2123

⑥

January 18, 1977

Testimony before the Senate Education Committee
RE: Senate Bill 62

My name is Jim McGarvey. I represent the Montana Federation of Teachers, AFT, AFL-CIO, and the Montana Federation of Teachers stands opposed to Senate Bill 62 which will eliminate the responsibilities of the State Superintendent and provide an appointed person to handle the affairs of the public schools in the State of Montana.

The Montana Federation of Teachers feels that the Superintendent should be elected in order to ensure direct access by citizens, parents, teachers, etc.

An appointed officer would not have the power to deal with the needs of the educational process in that this person would have to be subject to the desires of a board that is not elected. If the Superintendent and the Board do not agree on issues under the appointed system, the chief officer would naturally be concerned with the status of the job; whereas the Superintendent would have to answer to the taxpayers for the positions and programs of the office.

An elected official is a full time employee of the State, whereas an appointed official would be subject to the mandates of a board that meets only monthly. The elected official can function as the needs arise and does not have to wait for direction to meet the needs of Montana's public education.

It is the concern of the Montana Federation of Teachers that the elimination of the State Superintendent's duties, elimination of the functions of the State Superintendent would be blatantly violating the mandate of the people in the State which they expressed via the

NAME: P. J. S. of Wendelland DATE: Jan 18, 1977

ADDRESS: 835 Breckinridge

PHONE: 442-6818 442-5367

REPRESENTING WHOM? myself

APPEARING ON WHICH PROPOSAL: HR 62

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Sharon S. Farney DATE: January 18, 1977

ADDRESS: 30. 11 Bay 269 Great Falls

PHONE: 415-3-2783

REPRESENTING WHOM? Private Individual

APPEARING ON WHICH PROPOSAL: Senate Bill No. 62

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: attacked

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Mr. Chairman, Committee Members,

My name is Sharon Finney and I am a private citizen from Great Falls. I have come here to protest strongly the usurping of voter's power in abolishing the elected office of State Supt of Public Instruction. I firmly believe that the public has the right and duty to vote this office in. To deny the public the opportunity of direct access to the office is very offensive to me. Another appointed office is not what this state needs and I urge you to kill SB62 in this committee. Let's ~~ha~~ leave the choice of electing the Office of Public Instruction with the people. Thank you.

NAME:

Roy C. White

DATE: January 18, 1977

ADDRESS:

Box 68 Victor, Montana

PHONE:

642-3494

REPRESENTING WHOM?

Myself - as an individual

APPEARING ON WHICH PROPOSAL: Senate Bill No. 62

DO YOU: SUPPORT?

AMEND?

OPPOSE?

COMMENTS: Will be read - then written comments
submitted

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Roy C. White
Trustee Victor School District #7
Ravalli County Democratic State Committeeman
Teacher - 17 years ~~in Montana~~

As an individual I request that S.B. 62 DO NOT pass. I feel that this legislative proposal is not in the best interest of children enrolled in the public schools of Montana, is not in the best interest of the people of Montana, is not in the best interest of education in general.

I respectfully request the Education Committee to oppose the passage S.B. 62.

NAME: Dave Hall DATE: 11/18/22

ADDRESS: 331 Woodford St. Missoula, MT 59801

PHONE: 549-6418

REPRESENTING WHOM? Montana Youth Lobby

APPEARING ON WHICH PROPOSAL: S.B. 62

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

THIS QUARTER I TRIED TO CONTACT A COUNTY SCHOOL BOARD MEMBER ABOUT A SCHOOL PROBLEM. AFTER TALKING WITH HIM FOR A FEW MINUTES, I WAS TOLD ESSENTIALLY HE COULD NOT HELP ME. HE COULD NOT ACT OUT OF HIS OWN JUDGEMENT BECAUSE HE WAS ONE OF MANY. HE WAS ON A BOARD. ALSO, I WOULD HAVE HAD TO GET ON AN AGENDA AND MONTHS WOULD HAVE PASSED BEFORE I WAS "NEW BUSINESS" BEFORE THAT BOARD.

LAST WEEK, I CONTACTED THE SUPERINTENDENT OF PUBLIC INSTRUCTION WITHOUT PRIOR APPOINTMENT, AND WE SAT DOWN AND TALKED UNTIL WE FELT A SOLUTION HAD BEEN REACHED.

I HAVE TRIED TO WORK THROUGH A SCHOOL BOARD AND FOUND IT VERY UNRESPONSIVE TO MY NEEDS AS AN INDIVIDUAL STUDENT.

AND I WORKED THROUGH THE SUPERINTENDENT AND FOUND HER VERY RESPONSIVE TO MY NEEDS AS ONE STUDENT AMONG THOUSANDS.

DAVE HULL
JUNIOR - MISSOULA HELLGATE HIGH

NAME: Linda Bruner DATE: Jan. 18, 1977

ADDRESS: Bx 1243 Conrad MT

PHONE: 277-3657

REPRESENTING WHOM? Co. Supt.

APPEARING ON WHICH PROPOSAL: Senate Bill 62 - Education Committee

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: The general public and those interested in education need a responsive representative for education. One that will formulate policy in interest of the children of Montana

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME John Henry Bill No. 5162
ADDRESS 17 West Street Name Date
WHOM DO YOU REPRESENT? Myself

SUPPORT

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: