

SENATE EDUCATION COMMITTEE
JANUARY 10, 1979

The Senate Education Committee met Wednesday, January 10, 1979, in Room 402 of the Capitol Building. Senator Bob Brown, Chairman, called the meeting to order at 1:30 p.m. Committee members present were Senators Brown, R. Smith, Anderson, O'Hara, Blaylock, Thomas, Severson, McCallum, E. Smith, and Fasbender.

The following bills were heard: Senate Bill 32
Senate Bill 59.

SENATE BILL 32

Jim Oppedahl, Legislative Council, explained the purpose of the bill at the request and in the absence of Senator Mathers, the sponsor. He stated Senate Bill 32 was developed by the Interim Education Subcommittee on Education as a result of SJR 11 of the 1977 Session. Community colleges began as extensions of high school and as such were governed by school districts. The bill establishes community college governance, separates them from the school districts and puts them under the Board of Regents, and establishes the applicability of the school district as it applies outside of Title 20.

Senator Mathers stated the community colleges, Bill Lannan of the Commissioner of Higher Education and Interim Subcommittee on Education (which included Senators Blaylock, McCallum, and Fasbender) had all worked together to bring all the laws governing community colleges together. He presented the booklet "Community College Governance" prepared by the Subcommittee on Education to the committee members. He further stated the bill is basically a recodification bill with grammatical changes and references to school district laws being the only changes.

PROPONENTS

Bill Lannan, Office of the Commissioner of Higher Education stated his support of the bill. He said the bill will provide community colleges with a set of statutes for their operation.

Jean Robacker, representing the Flathead Valley Community College Trustees, stated she supports the bill but feels there is some confusion between page 2, lines 11-18, and page 32, lines 6-14.

Vern Kailey, Miles Community College, stated the bill is an attempt to bring all the laws together for a clear, more concise operation of community colleges and he urged support of the bill.

There being no opponents, the meeting was opened to discussion by the committee.

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After discussion with Mr. Oppedahl and Mr. Lannan, the committee agreed there is some confusion between the material on page 2, lines 11-18 and page 32, lines 6-14. The committee decided to seek the advise of the committee attorney to resolve the conflict.

There being no further discussion, the hearing was opened on SB 59.

SENATE BILL 59

Vice Chairman Ed Smith presided while Senator Brown, sponsor, presented the bill. He stated the purpose of the bill is to deal with the suspension or revocation of teacher certificates.

Senator Brown introduced Mrs. Harriett Meloy, Board of Public Education, who spoke in support of the bill. Her written testimony is attached to these minutes.

Dave Sexton, representing the Montana Education Association, stated his support of the bill. He said the bill tightens up the reasons and procedures for revocation and suspension and deletes some archaic language. He proposed two changes in the bill. The first on page 2, line 8, where he would like to insert "substantial" or "material" before "breach" and on page 3 he preferred to retain the old language as he felt the proposed language could extend the length of the suspension in terms of future employment of the teacher.

John Voorhies, representing the Office of Public Instruction, spoke in support of the bill. His written testimony is attached.

Leonard Sargent, Executive Director of the Montana School Boards Association, spoke in support of the bill. He feels the bill is better and stronger than the old law. He feels the word "breach" is nebulous also, but is concerned about adding the word "substantial". He said previously "with good cause" was used but that also wasn't definitive. He stated a contract is a contract and as such should be honored.

There being no opponents to the bill, the meeting was opened to discussion by the committee.

Senator Blaylock noted that school boards are reluctant to enforce because they don't want to have teachers on staff who don't want to be there.

Senator McCallum asked if a teacher convicted of a felony in another state can teach in Montana.

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Mrs. Meloy said she was sure this was anticipated in the law but there are some felony offenses that do not apply.

Senator Fasbender stated that there is now a felony of moral turpitude separate from some other felonies.

Bob Pyfer, committee attorney, stated the crime would have to be weighed in terms of effect on the teacher's ability to teach the children.

Senator Smith asked if a relatively small offense such as being late for class if stretched over a long period of time wouldn't disrupt the whole teaching system and therefore be considered a breach of contract.

Leonard Sargent replied that in that case it would come under gross neglect of duty rather than breach of contract.

Senator McCallum asked if all revocations or suspensions come before the Board of Public Education.

Mrs. Meloy stated she didn't know where else they could be heard.

Senator McCallum asked how many suspensions or revocations they have had.

Mrs. Meloy answered 10 - 12 last year, none this year.

Senator Anderson asked if the primary punishment is suspension - is there any provision for fines for lesser offenses.

Mrs. Meloy stated that a year's suspension is the minimum.

Senator Anderson asked if at the end of the suspension period the information is permanently attached to the teacher's records.

Mr. Voorhies stated the information is retained.

There being no further discussion, the hearing on Senate Bill 59 was closed.

EXECUTIVE SESSION

Senator Mathers presented a proposed amendment concerning auditing the community colleges by the auditor as are the rest of the units of University system.

Ellen Feaver, Deputy Legislative Auditor, states the Department of Community Affairs audits school districts and since the school district statutes included the community colleges, a check was done to see if the colleges were being audited. It was found they were not and therefore it was decided to put them under the legis-

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lative auditor as are all the units of the system.

ACTION ON SENATE BILL 32

Senator McCallum moved to amend page 3, line 22, and page 25, line 25. Senator Richard Smith seconded the motion and it carried unanimously. (see attached standing committee report for full text of amendments)

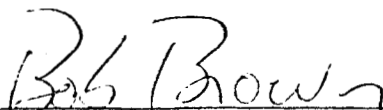
Senator Fasbender moved to direct the committee attorney to draft amendments to clarify and align the sections on page 2, lines 11-18, and page 32, lines 6-14. The motion carried unanimously.

Senator Blaylock moved to amend page 9, line 13 and page 35, line 9, according to the amendments proposed by Senator Mather and the legislative auditor. The motion carried unanimously.

Senator McCallum moved Senate Bill 32 Do Pass As Amended. The motion carried unanimously.

Senator Brown reminded the committee of the brown bag lunch Thursday at the Office of Public Instruction on the Foundation Program.

There being no further business, the meeting adjourned to reconvene Friday, January 12, at 1:30 p.m.



Senator Bob Brown, Chairman

jdr

DATE January 10

COMMITTEE ON Education

Senate BILLS NO. 59
32

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppo
Leonard Sargent	Montana School Boards Assn.	X	
Marilyn Miller	Board of Public Education		
Soren Mercer Tenberg	Montana School Boards Assoc		
Jim Oppedeht	Leg Council		
Wayne Buchanan	MSBA		
Martha Omishuk	MPTA		
Ellen Teover	Legislative Auditor		
Jacob Blak	MASA		
Carl Johnson	SAM		
James Hoffman	President-Dawson Community College	532 ✓	
Kelley A. Hopkins	Mont Nurses Assoc		
Rob J. Clingman	Admin Assit. to the Pres. F.U.C.S.	✓	
Carl Johnson	Montana Student Lobby		
Dave Wilson	State Aid		
Rich H. Brafter	Leg. Int.		
Murray J. Espelin	Leg. Dir.		
Ray Eth	Montana Pres.		
Bill Lannan	Comm. of HE		✓
Jean Robacker	Flathead Valley Com College		✓
Dwight Milne	" " " " " " " "		✓
Virginia DeFand	Special Ed P.T. Activities		
Yvonne Ashley	Missoula Community College		✓
Kick Bryan	Associated Students of Mont. State Univ		



SUBCOMMITTEE ON EDUCATION

COMMUNITY COLLEGE GOVERNANCE

November 1978

Published by

MONTANA LEGISLATIVE COUNCIL

State Capitol

Helena, Montana 59601

NAME: Bill Lanna DATE: 1-10-79

ADDRESS: Helena

PHONE: 449-3024

REPRESENTING WHOM? Comm. of Higher Education

APPEARING ON WHICH PROPOSAL: SB 32

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jean Rucker DATE: 1/10/79

ADDRESS: 11.55 Montford Rd. Raleigh NC

PHONE: 755-2751

REPRESENTING WHOM? Blithers Valley Com College Trustees

APPEARING ON WHICH PROPOSAL: SB 32

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

COMMENTS: Confusion over page 2 lines 7 thru 18
✓ page 32. lines 6-14

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Vern Karley DATE: 1/10/79

ADDRESS: Miles City

PHONE: 406 - 230 3031

REPRESENTING WHOM? Miles Community College

APPEARING ON WHICH PROPOSAL: SB 32

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ann M. May DATE: 1/11/79

ADDRESS: 1317-9th Helena

PHONE: 442-8112

REPRESENTING WHOM? Board of Public Educ

APPEARING ON WHICH PROPOSAL: SB 59

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Board of Public Education

BOARD MEMBERS

January 10, 1978

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MARILYN F. MILLER
ASSISTANTS TO THE BOARD

EX OFFICIO MEMBERS:

- Thomas L. Judge, Governor
- Georgia Rice, Superintendent of Public Instruction and Executive Officer of Vocational Education
- Lawrence K. Pettit, Commissioner of Higher Education

TEACHER CERTIFICATE SUSPENSION AND REVOCATION (SB 59)

APPOINTED MEMBERS:

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- Neil J. Lynch
Butte
- Allen D. Gunderson
Billings
- George A. Johnson
Great Falls
- Marjorie W. King
Winnett
- Harriet C. Meloy, Vice Chairwoman
Helena
- Enid O'Loary
Havre

Ladies and gentlemen of the committee, I am Harriett Meloy, Chairwoman of the Board of Public Education. The Board has requested amendment of section 20-4-110 dealing with suspension or revocation of teacher certificates. This statute can have a tremendous effect on the lives of school teachers and administrators, and the Board feels that the current law is inadequate in several areas.

The most substantive change occurs in Section 1 which outlines the reasons for which the Board may suspend or revoke a certificate. The Board has added (a) "making any statement of material fact in the application for a certificate which the applicant knows to be false" and (g) "denial, revocation, suspension or surrender of a teacher certificate in another state for any reason constituting grounds for such action in this state." Previously the Board has had no authority to suspend or revoke a teacher's certificate for an offense that occurred in another state--even if that offense would be cause for suspension or revocation if it had occurred in Montana.

The Board also proposes modifying the language about breach of contract to specify "breach of the employment contract between the teacher and the trustees of a district." There are many types of contracts--including penalty contracts--and the Board feels the only area in which it should have jurisdiction is the contract of employment.

There has been considerable misunderstanding about the Board's proposed amendments to the section that currently provides "immorality" and "intemperance" as grounds for certificate revocation. Once such conduct has been alleged, Board hearing procedures stipulate that the Board must decide if "substantial reason exists" to proceed to a revocation hearing. Unfortunately, we have no clear legal criteria for determining whether or not a particular act or practice is immoral or intemperant. Some persons, for example, may allege a teacher who has one beer at lunch is intemperant; for others, it may be three, six or nine beers. Everyone would agree, however, that once a teacher's performance in the classroom becomes impaired by the amount of beer consumed, there should be grounds for revocation. The addition of "gross neglect of duty" would seem to cover such instances sufficiently.

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TEACHER CERTIFICATE SUSPENSION & REVOCATION (SB 59)

Likewise, what is immoral to one person may be quite acceptable to another. There are, however, behaviors that society in general regards as immoral and they have been legislated against. A teacher who is convicted of such behavior could, therefore, have his or her certificate revoked. This is why "conviction of a crime involving moral turpitude" is being proposed as grounds for revocation.

The Board certainly does not condone immorality or intemperance; we just feel these terms are ambiguous and difficult to interpret.

"standing"

The Board would also like to clarify the procedure for handling suspension or revocation matters. Under current law, any citizen may bring a charge against a teacher to the Board of Public Education. The Board would rather these charges be channeled through the local school board for a teacher employed within the past 12 months and through the Superintendent of Public Instruction if the teacher has not been employed during the past year. The Board believes that all matters of teacher certificate suspension and revocation should come through these two administrative channels before they reach the Board of Public Education.

Although the Board has always afforded teachers an opportunity to defend themselves and their qualifications against charges during the hearing process, we feel this should become a part of the statute.

Finally, the Board proposes changing the period of suspension from the current school fiscal year and the ensuing fiscal year to two years from the commencement of the suspension. Frequently, proceedings are not concluded until spring of the first fiscal year. That means a suspension of one year would affect a teacher for only a month or two. The proposed amendment gives the Board greater latitude in imposing a suspension for one year or two years.

Once again, let me emphasize that the Board of Public Education is not seeking to water-down our responsibilities in the area of teacher certificate suspension or revocation. We simply would like the law clarified so that we can properly discharge our duty in this area.

NAME: John Voorhis DATE: 1/10/79

ADDRESS: OP1

PHONE: 449-3150

REPRESENTING WHOM? Office of Public Inst

APPEARING ON WHICH PROPOSAL: SB 59

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: comments limited to line 25 on page 2
+ lines 1+2 on page 3

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Mr. Chairman, members of the Senate Education Committee, my name is John Voorhis and I represent the Office of Public Instruction at this hearing.

Our particular concern and interest is limited to line 25 on page 2 and lines 1 & 2 on page 3 of this bill requested by the Board of Public Education. This section deals with the standing of the Superintendent to initiate suspension and revocation proceedings.

Our major concern is that people from other states who have had their certificates suspended or revoked and are serving that suspension not be given a Montana teaching certificate nor be allowed to practice their profession in our state during the course of that suspension.

Under the present system, if a person has had his certificate suspended by another state, he can come to Montana, gain a certificate and teach. This procedure results from vagueness of the law regarding who should bring proceedings in some cases. This procedure, if not changed and strengthened, encourages, at the least, immigration of educators with problems.

We believe that if a suspension becomes known during or after the certification process, it should be possible for the Superintendent to deny a certificate or institute the process required of the Board of Public Education to suspend or revoke a certificate already issued.

We believe this section of this bill will allow us to take this action.

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Montana Legislative Council

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DIRECTOR, RESEARCH

LC 0016

1979 Legislature
Code Commissioner Bill -- Summary

Sen. Bill No. 126

AN ACT TO GENERALLY REVISE THE LAWS RELATING TO EDUCATION.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 20-3-106. In (9), changed "20-9-505" to "20-9-506" to correct inaccurate internal reference. Section 20-9-505 says nothing about budget forms while 20-9-506 requires the superintendent to prescribe certain budget forms.

Section 2. 20-3-354. Changed "20-20-201" to "20-3-352" to correct inaccurate internal reference. Section 20-20-201 says nothing about additional trustee positions while 20-3-352 provides the procedure for determination of the number of additional trustee positions. Also added "board of" for clarification.

Section 3. 20-6-509. Reworded first sentence for clarification. It formerly read "...the closure of a junior high school shall be closed...".

Section 4. 20-7-801. Reworded to correct ambiguity.

Section 5. 20-9-215. Deleted "city or town" since city officials have nothing to do with school financial administration. Reference to county officers is retained because the county treasurer has school financial administration duties. The meaning is not changed because this section with inclusion of the reference to city or town officers is also codified in Title 7 as 7-5-~~215~~.

4124 (3)

Section 6. 20-9-431. This section relates to sale and purchase of school bonds. All power to invest state funds was transferred to the board of investments by 82A-204, R.C.M. 1947, (17-6-201) and 82A-205, R.C.M. 1947, as enacted by Sec. 1, Ch. 272, L. 1971. Changed "board of land commissioners" to "board of investments".