

MINUTES OF THE HOUSE EDUCATION COMMITTEE
February 16, 1981

The House Education Committee convened at 12:30 p.m., in Room 129, State Capitol, on February 16, 1981, with Chairman Eudaily presiding and all members present except Rep. Teague, who was excused.

Chairman Eudaily opened the meeting to a hearing on the following bills: HBs 665, 662, 696, 677, 639.

HOUSE BILL 655

REPRESENTATIVE WILLIAM (RED) MENAHAN, District 90, chief sponsor, said the bill is to aid districts with declining enrollments by averaging the ANB for the past three years instead of just the immediately past year. He felt it would work well with HB 610.

WAYNE BUCHANAN, Montana School Boards Association, said they think it is a good bill. He said the schools hit the hardest by declining enrollments are not the big schools but the small ones as they have difficulty absorbing the loss. He felt, too, that it would be a good companion bill for HB 610 and would make the caps more palatable.

SHAUNA THOMAS, Montana Federation of Teachers, AFL-CIO, said they felt the bill did good things. She said the founding fathers in 1949 when they established the foundation program probably never dreamed there would be a declining enrollment problem so they built in no safeguards for that. She said the bill doesn't allow windfalls to the schools without declining enrollments as you can use this only if you have a declining enrollment. She urged the committee's support of the bill.

DAVID SEXTON, Montana Education Association, said they too would like to add their endorsement of the bill. He said the bill will mitigate the effects of declining enrollment by making it more gradual.

JOHN MALEE, Butte, Montana Federation of Teachers, said they would like to go on record as favoring the bill for most of the already mentioned reasons.

There were no opponents. Rep. Menahan closed. He said the bill has a wide range of support. He said his home town of Anaconda has lost about 120 students and the loss has been spread throughout the seven school buildings so it is difficult to cut a class or a program.

Questions were asked by the committee. Rep. Donaldson asked if there was a fiscal note and the reply was that one had been requested.

In reply to a question Rep. Menahan said Montana is expected to

bottom as far as declining enrollments are concerned in the next three years, so in three years this bill will probably not be significant. He said the ANB is now based on the previous year's enrollment. He said in Anaconda they are concerned about this year as it is when they have had the big drop.

Rep. Anderson asked Ms. Thomas and Mr. Sexton if they knew what the cost would be to use the 3-year average. They both said they didn't know. Rep. Anderson asked Rep. Menahan why he didn't write this bill to begin the second year. Rep. Menahan said he didn't know about HB 610 when the bill was written. He said it could be applied the second year.

Rep. Lory asked Bob Stockton, OPI, concerning the cost and Mr. Stockton said the figures for the fiscal note had been done and he offered to go back to the office to get them. Rep. Lory said it could wait until executive consideration of the bill.

Rep. Hanson asked if those with increased enrollment also wouldn't have a legitimate gripe as the figures are based on the previous year. Rep. Menahan felt the impact would not be as great.

Chairman Eudaily asked concerning the fact that no distinction was made between small schools and larger schools. Mr. Menahan felt the larger schools could adjust better than the smaller schools as it is a smaller percentage. Chairman Eudaily asked if any consideration was given to a built in percentage factor that the decline would have to exceed before they would qualify for the rolling average. Rep. Menahan said he hadn't but it would make sense and perhaps could be worked into the bill.

Written testimony was left supporting the bill by JESSE LONG, School Administrators of Montana, EXHIBIT 1.

HOUSE BILL 677

REPRESENTATIVE CHUCK COZZENS, District 64, said this is a companion bill to HB 639. He said it is a simple bill that would allow the trustees of a school district to earmark a portion of the comprehensive insurance fund end-of-the-year cash balance as a cash reserve fund for the ensuing school fiscal year. He introduced the following proponent to explain it further.

JOHN DEENEY, Assistant Superintendent of Schools, Billings, said funds have been set up for many items like transportation and retirement and a similar setup is needed for the comprehensive insurance fund. He said right now they have to inflate their budget to keep funds from July 1 until the tax money comes in, just in case a premium comes due before the tax money comes in. He said this wouldn't give them any extra money to operate as it could be borrowed from only when the cash flow was down.

WAYNE BUCHANAN, School Boards Association, said in the past few years the need to help the district make ends meet has become very apparent. Items need to be budgeted for and this bill and Rep. Menahan's address this problem of budget fluctuations and the bills attempt to even things out. This doesn't give any more money but it allows a reserve fund that would be budgeted at a normal range to try to stabilize budget fluctuations.

There were no opponents. Rep. Cozzens said in closing one only needs to look at the third co-signer to know how valid the bill is.

Rep. Anderson asked Mr. Deeney if bids were needed on the insurance each year. Mr. Deeney said they can go a three year period.

HOUSE BILL 639

REPRESENTATIVE CALVIN WINSLOW, District 65, chief sponsor, said this bill allows the school district trustees to set up an adult education fund and gives some flexibility to the school district. He called on Mr. Deeney to further explain the bill.

JOHN DEENEY, Assistant Supt. of Billings Schools, said they are in support of the bill which is similar to the past bill. He said this program in their district is working full time. They have the same problem where they need money to operate during the summer, so they have to inflate the budget one year to have enough funds available for early fall. This would help give some stability.

There were no opponents. Rep. Winslow closed. He said this stability will increase the efficiency within the school district.

During questions Rep. Hanson asked Bob Stockton, OPI, what he thought of all these reserve funds. Mr. Stockton said law prohibits school districts from transferring money between funds. He felt there was a need as all these different items should have a reserve fund.

Rep. Meyer asked what they do now. Mr. Deeney said they inflate their general budget since there is no legal way to cover these with a reserve.

Rep. Williams said this changes the law so you can change the bookkeeping so you have the money where you need it.

HOUSE BILL 696

REPRESENTATIVE GERALD KESSLER, District 66, chief sponsor, said this bill is similar to the past two. The bill establishes a reserve fund for nonteaching staff in reference to their sick leave. He went through the bill discussing the changes. This fund would pay the sick leave upon termination. He introduced Mr. Deeney.

JOHN DEENEY, Billings Assistant Supt. of Schools, said they have 900 employees in nonteaching positions and they are allowed to accumulate unlimited sick leave and must be paid for it upon termination. He said this would amount to 1/2 million dollars if they all left. The bill would allow them to take 30 percent of the total liability and establish that much money in reserve to pay the employees that terminate. He said it is a guess as to how much will be needed in the general fund. He said they can handle vacation pay as that is permitted to accrue for only two years.

WAYNE BUCHANAN, School Boards Association, said everything has been said about it but there is an item he wished to draw to the committee's attention. He said a janitor or two leaving would hit a small school hard. He felt this was a very important bill for the small schools.

There were no opponents and Rep. Kessler closed.

Questions were asked by the committee. Rep. Hannah asked how much sick leave is given. The answer was twelve days a year.

HOUSE BILL 662

REPRESENTATIVE JAMES BURNETT, District 71, chief sponsor, said the committee might recall a similar bill he had put in the last session. He said he took this bill to the Board of Education and the Office of Public Instruction and they all have had their input into it. He said this permits four wheel drive school buses.

WAYNE BUCHANAN, School Boards Association, said this bill is similar to the one introduced last session. He said it was a good bill and they testified for it then and they still think it is a good bill and urge the committee to support it.

CAPTAIN WALT MILLER, Captain of the Montana Highway Patrol, said they had signed as opposing but were more like neutrals. He said they were a little vague on just what the bill authorizes. He said they have no problem with the four wheel drive vehicles picking up kids but they have a problem with the elimination of minimum standards. He said he had reservations about a vehicle that could transport eight children without any identification or protective lighting to let other motorists know that this vehicle could be stopping to let children on and off.

Chairman Eudaily said the School Administrators of Montana had submitted written testimony opposing and a copy is EXHIBIT 2 of the minutes. There was also phoned in testimony opposing from Carl Knutson, Montana Pupil Transportation Assoc., and the Pupil Transportation Advisory Council. There was also a call from Don Waldron of Libby representing the Montana Conference of Pupil Transportation opposing the bill. A copy of Carl Knutson's testimony is EXHIBIT 3.

The Board of Public Education sent written testimony supporting and it is EXHIBIT 4 of the minutes.

Rep. Bennett said in closing that what happens when the school bus can't make the rounds is that a student takes the family four-wheel drive and picks up his friends and he is not a bus driver. He felt the school board in making designations would not stick their neck out if a vehicle is not safe. He said in his area there are roads of such a caliber that a small four-wheel bus is needed. He said in the past the OPI has been adamant in their opposition but aren't against it this time. He said 87 different school administrators had requested that he put this bill in again.

Rep. Andreason suggested putting in some safety standards like lights in the back. Rep. Burnett said he would have no objection.

Rep. Williams questioned the school administrators requesting the bill as there was written testimony from the School Administrators Association opposing the bill. Rep. Burnett said he had been petitioned by 87 administrators to put this bill in.

Rep. Vincent said something should be added that they would carry no more than eight pupils or they could be overloaded. He felt some safety standards would have to be worked out.

Rep. Lory questioned the possibility of the school board being liable since they have to certify it is in good mechanical condition. Rep. Burnett said he had thought about that and it would need a statement of liability provision.

Rep. Vincent said he was still unclear. Are we talking about a four wheel drive bus owned by the district or privately owned? If privately owned it would need ongoing safety checkups. Rep. Burnett said it would have to be a contracted bus with the school district owning it.

Rep. Yardley said since it will be regulated by the Board of Public Instruction it will need a statement of intent.

Edward Eschler, OPI, said they saw the bill quite a while ago and they thought the concept was good as it would be able to maneuver difficult terrain. The vehicles would meet certain safety criteria.

Mr. Buchanan said special education requires that they must be picked up at the door. He said Red Lodge needs this kind of transportation.

Chairman Eudaily said according to the testimony the trustees will have control over this. He said in the bill he doesn't see where they have control over anything but the mechanical condition. What if it is used for other purposes? He said the school buses are usually under more control than this. Rep. Burnett said the intent is that the trustees have control.

Chairman Eudaily opened the meeting to a consideration of the following bills.

EXECUTIVE SESSION

HOUSE BILL 367 - The researcher, Lee Heiman, passed out copies of suggested amendments (EXHIBIT 5). Rep. Dussault explained the amendments and then moved them. Rep. Andreason asked why a special fund. Rep. Dussault said she had discussed this with OPI and they felt this would be the best solution. She said they are trying to get away from special little earmarked funds. Rep. Hanson asked what was meant by noncompliance relief. Rep. Dussault said her understanding is that the state board can say they don't have to comply.

Rep. Lory said a statement of intent would be needed and Rep. Dussault agreed.

Rep. Lory said this would say the Board of Education can override the Legislature. Rep. Anderson asked if it wouldn't put the Board of Education in an awkward position as they would probably go along with the school district and be at odds with the Legislature. Rep. Dussault said this could happen if an individual school district outlined that they couldn't comply as they didn't receive any funds. However, if money accompanies the request the Board would probably support the Legislature. Rep. Andreason said he still had a problem with the amendment as he didn't think they should be able to tell the Legislature to go fly.

Rep. Hanson mentioned the main culprit is not usually the Legislature but the Board of Education and the Office of Public Instruction and this doesn't apply to them. Rep. Dussault said no because they don't have the power to appropriate money. She said it is something that needs dealing with but not with this bill.

Question was called on the amendments and the motion carried with Rep. Andreason voting no and Reps. Donaldson and Teague absent.

Rep. Dussault moved HB 367 DO PASS AS AMENDED.

Rep. Hanson said it could have the effect of causing the agencies to take a second look at their rules and regulations.

Rep. Anderson said he didn't like to see the Board of Education in direct conflict with the Legislature. He said he sees it causing more conflicts in the future.

Rep. Andreason said he likes the original intent of the bill but as it stands with the amendments he couldn't support it.

Rep. Yardley said he was going to oppose the bill because of the direct expenditure of additional funds. He said huge amounts of money goes into education. Funds would have to be segregated. He said he was concerned about special education.

Rep. Dussault said the way the bill as originally written would have created total chaos. She said how else would you do it. This places the authority within a certain body which should have substantive knowledge of the issues. She said she could understand possible conflicts but didn't know where else to put it.

Rep. Hanson said it makes him a little nervous to put the Board of Education in a position of authority and give them more power.

Rep. Lory said it is only veto power. Rep. Vincent said he sees some problems but not enough to give the bill a do not pass. He said there would be a principle on the books saying if you are going to pass any mandates on the schools it must be funded and he said difficulties could be addressed by amending even before the implementation. He said if needed it could be repealed the next time around.

Rep. Andreason said you don't see this as a danger to the future credibility of the State Board with its relationship to the Legislature. Rep. Dussault said she doesn't but that doesn't mean Rep. Andreason isn't correct. She said she couldn't see the act coming into play unless the Legislature started something really bad.

Rep. Anderson said he was doing a flipflop and was going to support the bill to see how it would function.

The question was called and Reps. Yardley and Meyer voted no; Donaldson and Teague, absent. The motion carried.

Rep. Andreason upon being recognized by the Chair asked if something could be done about the pay periods at the University. Rep. Vincent said he introduced in the past session a bill to do this - he said that bill is in good shape and ready to go. Rep. Andreason then moved the committee draft a committee bill to resurrect Vincent's bill from last session as amended. He said this would address the time of payment of professionals within the university system. Rep. O'Hara asked about the nonprofessionals and Rep. Vincent said they are paid by the hour and paid twice a month. Question was called and the motion carried unanimously with those present. Reps. Donaldson and Teague were absent.

HOUSE BILL 647 - Chairman Eudaily said Lee Heiman, staff researcher, had a letter to read from Attorney General Greely clearing up a former attorney general's opinion. A copy of this letter is EXHIBIT 6 of the minutes. Rep. Williams expressed the opinion that the school has all the power it needs now to dismiss an unruly child. Rep. Lory moved to TABLE the bill. This motion carried with Rep. Hannah voting no and Reps. Teague and Donaldson absent.

HOUSE BILL 660 - Rep. Meyer moved to TABLE the bill. Rep. Andreason asked if there was a problem with the bill and the answer

was it would cost 2.8 million dollars. The question was called and the motion carried with Reps. Anderson, Kitselman and Vincent voting no and Reps. Teague and Donaldson absent.

HOUSE BILL 639 - Rep. Dussault moved DO PASS. This motion carried unanimously with those present (same absent as previous vote).

HOUSE BILL 677 - Rep. Kitselman moved DO PASS. The motion carried unanimously with those present (same absent as previous vote).

HOUSE BILL 696 - Rep. Andreason moved DO PASS. The motion carried unanimously with those present (same absent as previous vote).

Meeting adjourned at 2:40 p.m.

Respectfully submitted,


RALPH S. EUDAILY, CHAIRMAN

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Ex. 1

S
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M

School Administrators of Montana
501 North Sanders
Helena, MT 59601
(406) 442-2510

Feb. 13, 1981

To: Ralph Eudaily, Chairman
House Education Committee
From: Jesse W. Long, Executive Sec.
School Administrators of Montana
Re: HB655 An act to increase the reimbursement rate for
school bus and individual and isolated transportation
costs.

The School Administrators of Montana speak in favor
of HB 655.

The rate schedule increases in this bill more nearly
approach the costs of operating school buses. In all
probability the increases will not be sufficient to
cover the increased fuel costs by the end of the
biennium but it will be an improvement.

We ask a do pass on HB 655.

Ex. 2

**S
A
M** School Administrators of Montana
501 North Sanders
Helena, MT 59601
(406) 442-2510

Feb. 13, 1981

To: Ralph Eudaily, Chairman
House Education Committee
From: Jesse W. Long, Executive Sec.
School Administrators of Montana
Re: HB 662 An act to allow the trustees of a school district
to use a four wheel drive vehicle for transportation
under certain conditions.

The School Administrators of Montana speak in opposition
to HB 662.

We believe that transportation of all pupils should be
in the manner prescribed by Section (1)(a)(i) & (ii) in
Section 20-10-111 MCA.

Safety in school transportation is at best difficult to
achieve without providing additional loopholes.

We ask a do not pass to HB 662.

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Board of Public Education

February 18, 1981

BOARD MEMBERS

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State Superintendent of
Instruction
Commissioner
of Education

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RICHARD L. (RICK) REESE
MARILYN F. MILLER
ASSISTANTS TO THE BOARD

Representative Ralph Eudaily, Chairman
House Education Committee
State Capitol
Helena, Montana 59601

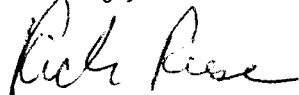
Dear Representative Eudaily:

The Board of Public Education would like to express its support for HB-662 which would authorize the use of four wheel drive vehicles as school buses in certain instances.

Last May the Board voted to support such legislation should it arise, and is pleased to see that Representative Burnett has now introduced a bill. Board members rode the school bus route in Petroleum County and were persuaded that given the weather and the condition of the roads in some school districts, smaller four wheel drive vehicles should be used as feeder systems for rural routes. From both a safety and economy stand point, the use of such vehicles seems advisable in certain situations.

It seemed highly undesirable to the Board to require the use of large, expensive to operate buses to pick up a handful of students. On cost per mile basis, the smaller vehicles were demonstrated to be more economical and probably as safe given the conditions on some routes.

Sincerely,



Richard L. Reese
Assistant to the Board

RLR:bg

cc: Rep. J. Burnett

AMENDMENTS (SUGGESTED) TO HOUSE BILL 267

Amendments

Ex. 5

1. Page 1, line 23.

Following: "state"

Strike: "to a special fund created"

2. Page 2, lines 3 through 5.

Following: "(3)"

Strike: the remainder of subsection (3) in its entirety.

Insert: "If the board of trustees believe that any law does not comply with the provisions of this [act] they may appeal to the state board of public education for relief from complying with or enforcing that law. The board of trustees may refuse to comply with or enforce the law if granted noncompliance relief by the state board of public education. The state board of public education shall grant noncompliance relief if it finds that:

(a) compliance with the law would require a significant expenditure by the school district; and

(b) the law does not meet the funding requirements of this [act]."

5-11-68 AM 10:00 - 11:00 AM MONDAY, 1968 TELEPHONE ROOM, 11/1/68

[illegible]