

HOUSE EDUCATION COMMITTEE

February 7, 1983

The meeting was called to order by Chairman Fritz Daily in room 420 of the Capitol Building at 12:30 p.m., with all members present, except Representative Kadas, who was excused.

Chairman Daily opened the meeting to a hearing on House Bills: 566, 591, and 552.

HOUSE BILL 566

REPRESENTATIVE WILLIAM (RED) MENAHAN, District 90, Anaconda, opened by saying we have here a three year rolling average enrollment in the schools. Because your fixed costs are still there and enrollment drops, you average the three years so school districts don't lose a great amount of income in areas where the business is shut down and you might have an exodus of students. Even in Anaconda, we haven't lost all that many and we have closed three schools in efforts to save money. Not all of the kids left from the same grade or school.

WILLIAM MILLIGAN, School District #1, Butte, presented the committee with a prepared statement of his testimony. (see exhibit 1)

JIM MCGARVEY, Montana Federation of Teachers, AFL-CIO, submitted written copies of his testimony. (see exhibit 2)

WAYNE BUCHANAN, Montana School Board Association, said we are in support of the bill. This issue came up last session. We know it is expensive and we recognize the fact that there is an equitable way to deal with these problems. It is not easy for school districts where size of enrollment is declining to decrease budgets. I don't think this would be widely used in Montana.

DAVID SEXTON, Montana Education Association, said this is a reasonable approach to provide assistance to those districts with severely declining enrollments.

Rep. Menahan closed.

Questions from committee. Rep. Sands asked how many schools would be affected. Rep. Menahan responded it depends on the district. The majority of the districts have some drop, but right now I would say 50% of the school districts have some small decrease.

Chairman Daily closed the hearing on House Bill 566 at 12:50 p.m.

HOUSE EDUCATION COMMITTEE MINUTES
February 7, 1983, page 2

HOUSE BILL 591

REPRESENTATIVE GERRY NISBET, District 35, Great Falls, opened by saying this bill makes specialists eligible for tenure. At the present time, there is no definition in the codes of what or who is a specialist. A common definition is that it includes school psychologists, speech pathologists, physical therapists, occupational therapists, and some others. The only specialist that must be certified under the policies of the Board of Education are school psychologists. They must obtain a class 6 specialist certificate. While specialists are not classroom teachers, they are an integral part of the education process and are really teachers in the same sense that they work directly with students in specialized areas. I feel that providing these certified specialists with the same rights as other certified members of the profession, would set right an inequity that currently exists. The second thing that House Bill 591 does is to delete the portion of the statute in 10-4-203, subsection 2. In November of 1981, the Montana Supreme Court ruled that 20-4-203, subsection 2, is impliedly repealed by the human rights act. House Bill 591 will clean up this part of the statute.

PROPOSERS

JUDITH BURKHARTSMEYER, Montana Association of School Psychologists, submitted a written copy of her testimony. (see exhibit 3)

SHIRLEY DeVOE, Montana Speech and Hearing Association, submitted a written copy of her testimony. (see exhibit 4)

DAVID SEXTON, Montana Education Association, said we regard this as a very important bill. We think the two issues addressed in this bill need to be taken care of. There is a conflict with the federal discrimination statute, and the state constitution. The discrimination that exists in the present statute is unenforceable, and we think the language needs to be cleared up so that teachers and school districts will know what their status is. Within the districts, we think these specialists are treated virtually the same as other teachers in just about every respect. They are on the same salary schedules and the same bargaining units as other teachers. We run into odd situations in cases of layoffs, where tenured and nontenured status makes a difference. Ordinarily a tenured teacher is considered to have seniority over a non-tenured. We think this is an inequity. A teacher fresh out of college could be retained over someone who has many years of experience, simply because they happen to be on a different job assignment. We believe all teachers should be treated the same.

HOUSE EDUCATION COMMITTEE MINUTES
February 7, 1983, page 3

JIM MCGARVEY, Montana Federation of Teachers, said I am in support of House Bill 591. Teachers currently get tenure regardless of the nature of funding of the program. Often times the argument against giving specialists tenure is that the funding is different. Currently, teachers are given tenure upon signing their fourth contract. With regard to seniority in the districts we represent, specialists are on the seniority rosters just like any other teacher in the school district, providing that they have the background to move into another area in time of layoffs. I think by affording specialists the same rights as teachers, you will be doing nothing more than putting into law, or supporting, many of the practices that are happening in school districts today. For years, many school districts gave contracts to specialists. It wasn't until the last few years that there was any distinction made.

OPPONENTS

WAYNE BUCHANAN, Montana School Board Association, said we feel this is a step in the wrong direction. This compounds the problem that we have with tenure generally. The point has been made today that specialists in schools are very similar to teachers because they are required to have teaching certificates from the Office of Public Instruction. The only category that has certification is the school psychologists. Anyone that is functioning as a teacher is tenured. As long as special education teachers and counselors meet these provisions, they are protected by the tenure statutes. We are talking about people who are not teaching. There is a vast difference between those teaching and those performing special services. When you hire these people, you are hiring them for special skills. Is it right for them to bump a teacher who was hired on the basis of teaching ability rather than for special services. The difficulties that would be caused are not reasonable. One of the difficulties we have with this bill is that we are not sure as to who would be involved. Sometimes specialized work is contracted out. How do you treat these special individuals and special services. This legislation would be a terrible blow to school districts.

Rep. Nisbet closed by saying providing the same opportunity for tenure to specialists who are already subject to the same regulations as classroom teachers will not be opening tenure to anyone, it will merely correct an inequity that exists in the tenure statutes.

Questions from committee. Rep. Lory said in case you have a reduction of force, a tenured teacher can only bump someone who is qualified in the same area, so you aren't really going to have that problem.

HOUSE EDUCATION COMMITTEE MINUTES
February 7, 1983, page 4

Mr. Buchanan said you might have the problem of teachers bumping into an area. There is no reason why a psychologist who has an elementary teaching status couldn't bump an elementary teacher. If they were only certified in those areas, it would be fine, but many of these people hold teaching certificates.

Rep. Yardley asked Mr. Sexton if this bill automatically gives a hearing specialist tenure without a decision from the school board, is this retroactive. The answer was I would assume it would apply to those people who had been there for four years or longer. I would have no objection to adding a reaction time to the bill.

Rep. Yardley asked Mr. Buchanan if the school boards would have an opportunity to make a decision on these people. The reply was no, it would be instantaneous from the point that they signed their fourth contract.

Rep. Miller asked Ms. Burkhartsmeier if it is correct that all specialists have a masters degree. The response was yes, they must have a masters degree or a fifth year of specialized course work.

Rep. Miller commented it could be read in that they have to have a degree to cover these people.

Rep. Hammond said if you have a degree and there is a second grade teacher who has been there two, three, four years, and you both have tenure under this law, you might have the right to ruff him. You have chosen to be a specialist, he has chosen to be an elementary teacher. I don't think you have that right. Ms. Burkhartsmeier replied it is a matter of specialization. If I want to become a better reading teacher, I risk tenure by going back and being specialized when I am still working with elementary children. I would, in fact, be more qualified than a teacher with lesser experience and lesser education.

Rep. Hammond called on Jim McGarvey to answer the same question. Mr. McGarvey said your question is one that is in the school districts right now between an elementary teacher and a high school teacher, between a math teacher and a physical education teacher, with regard to qualifications and tenure. Right now we have the tenure statute and it has been used to defend teachers when they have been fired unfairly. We are now in an era where we are looking at riffs, and we plug in the tenure law. If a school doesn't have a collective bargaining agreement that provides for an orderly seniority procedure, then that is where

HOUSE EDUCATION COMMITTEE MINUTES
February 7, 1983, page 5

we are with your question. This specialist would fit into the seniority spectrum. You cannot bump around in areas that you are not qualified for.

Rep. Hammond asked the same question of Mr. Sexton. The reply was the seniority provisions are determined at the local level. The provision says that the individual must have taught that subject within the last five years, or must have taught a certain number of years. There are qualifications on this.

Chairman Daily closed the hearing on House Bill 566 at 1:30 p.m.

HOUSE BILL 552

REPRESENTATIVE FRITZ DAILY, District 87, Butte, carried House Bill 552 for Representative Kenneth Nordtvedt, District 77, Bozeman, chief sponsor. Rep. Daily said this bill requires that when there is an additional voted levy in a school district, that the additional voted levy will not only state the amount and number of mills that are asked for, but will also state the percentage of increase or decrease from the last voted levy. It will make sure that the percentage of increase or decrease will be stated along with the amount and number of mills.

PROPOSERS

DENNIS BURR, Montana Taxpayers Association, said the bill provides a little more explanation to the people who are voting in the mill levies.

OPPOSERS

WAYNE BUCHANAN, Montana School Board Association, said the major difficulty with this bill is that the general fund doesn't necessarily have anything to do with the amount you are asking at the levy. This false picture is almost certain to cause a defeat of the local mill levies, particularly when there has been an increase in the general fund budget for some reason. There are a lot of reasons why the general fund budget can increase. Some school districts are trying to put their building programs into the general fund budgets. They will add a classroom or expand their building, and instead of having a separate bond issue for these things, they are just going to handle them in their general fund budgets. For a year or two, it will show a significant percentage increase in their general fund budget percentages. This may or may not have an effect on the voted levy. Some reasons why it could increase for a year or so are major purchases of equipment, heating, an influx of students, increased ANB, which would result in increased foundation

HOUSE EDUCATION COMMITTEE MINUTES
February 7, 1983, page 6

support. In this case, the voted levy may even go down. Consolidation or annexation of school districts could cause an increase. Sometimes general fund budgets will double and yet the amount you are asking from the taxpayer, because your tax base is broader, may actually be less. Special education can inflate your general fund budget, but funding from other sources may compensate. A judgement or an award from a court can inflate your general fund budget. All of these things don't necessarily have anything to do with the mill levy to which they are attached. I think they are asking for the wrong thing. It is almost certain, for those school districts that are trying to do these things within their general fund budgets, to defeat their mill levies.

Rep. Daily closed.

Questions from committee. Rep. Eudaily said in some of the illustrations that you gave for the building of major projects, aren't these sometimes voted on separately, so this wouldn't be affected. Mr. Buchanan replied yes, they are in some cases.

Rep. Hannah said it would seem to me that one of the problems is that there was substantial money appropriated to school districts in the state, and yet some of the voted levies also increased, so there is a real distortion. Would you say that this is part of the motivation behind the bill. Rep. Daily replied from Rep. Nordtvedt's perspective, I would agree with that. I think Rep. Nordtvedt feels that we put a lot of money into the foundation program, increased the schedule quite a bit, and a lot of that money wasn't used to reduce property taxes as was intended.

Rep. Hammond said in Alberton, we have not asked for additional mills for the last five years, but the mills have gone up because of the lowering tax base, this would be a type of distortion. Mr. Buchanan said there are other distortions that occur between the general fund budget and the voted levy, there is not a necessary connection.

Mr. Burr commented the list of things that Mr. Buchanan mentioned are more reason to have this type of legislation than to not have it. If this type of language appeared on the ballot, it would be an impetus to explain what this levy is for.

Rep. Peck commented have you ever tried to teach elementary kids the concept of percentage? This bill is not addressing the problem that Rep. Nordtvedt is concerned with. I don't think it is going to tell the taxpayer anything.

HOUSE EDUCATION COMMITTEE MINUTES
February 7, 1983, page 7

Vice Chairman Kennerly closed the hearing on House Bill 552 at 1:50 p.m.

EXECUTIVE SESSION

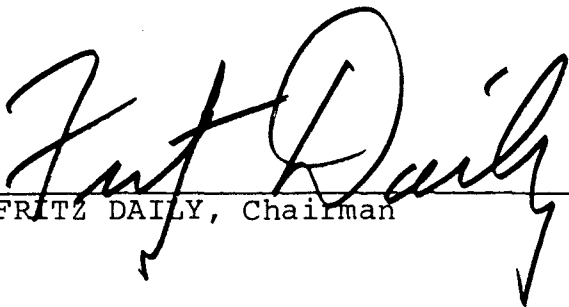
HOUSE BILL 444

Rep. Eudaily moved House Bill 444, DO PASS. I had some reservations about this bill, but there is no good reason to oppose it because it seems to be working.

Rep. Eudaily's motion carried with Representatives Donaldson, Eudaily, Kitselman, Lory, Miller, Nilson, Nisbet, Sands, Yardley, and Kennerly voting yes. Representatives Schye, Hannah, and Daily voted no, and Representative Hammond abstained.

House Bill 591 was moved to the same subcommittee dealing with the other tenure bills, House Bills 395 and 396. The subcommittee consists of Representatives Hammond, Sands, and Kadas.

Chairman Daily adjourned the meeting at 3:00 p.m.



FRITZ DAILY, Chairman



Cheryl Fredrickson
Cheryl/Fredrickson, secretary

VISITOR'S REGISTER

HOUSE

COMMITTEE

BILL

DATE _____

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

Education

COMMITTEE

BILL

591

DATE _____

 $\frac{2}{7}$

SPONSOR

Thicket

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE Education

COMMITTEE

BILL 552

DATE 3/7

SPONSOR Nordlvest

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Exhibit 1

WITNESS STATEMENT

Name William Milligan Committee On Education
Address 1026 E. McD. St. Date Feb 7, 1923
Representing Butter Mt School Dist #1 Support ✓
Bill No. 566 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Butte Public Schools

Office of the Superintendent

ne 782-8315

Butte, Montana 59701

February 7, 1983

Representative Fred Daily, Chairman
House of Representatives Education Committee
Capitol Station
Helena, Montana 59601

Re: House Bill 566

Dear Chairman Daily and Committee Members:

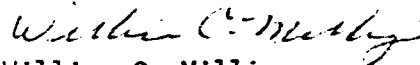
Previous testimony presented to the House Education Committee pointed to the fact that School District No. 1 needed at least a 10.5 percent increase in the foundation program in order not to raise the amount of the voted levy. This was based upon a nominal 4.5 percent inflationary increase in our budgets.

The dollar amount of the voted levy in School District No. 1 would remain the same under the above assumption, but local property taxes would increase due to a reduction in the tax base caused by the suspension of mining operations in our district. A table is attached.

The double or even triple blow to the Butte-Anaconda communities would be reduced under the provisions of House Bill 566. School District No. 1's A.N.B. for the last three years and an estimate for the current year follows:

	<u>High School</u>	<u>Elementary</u>
1980-81	2351 -5.8%	4966 -5.5%
1981-82	2213 -2.3%	4691 -5.4%
1982-83	2161 -3.5%	4438 -2.9%
1983-84 Projected	2085	4311
1980-83 3 yr. Avg.	2241	4698

Respectfully yours,



William C. Milligan
Superintendent

WCM/es
attachment

FUND	1982-83	1982-83	1983-84 Loss	1984-85 Loss	1985-86 Loss
Elementary General	12,222,235.00	1,500,603.00	303,065.00	565,419.00	823,154.00
Elementary Transportation	336,090.00	67,183.00	13,568.00	25,315.00	37,077.00
Elementary Bus Reserve	186,152.00	11,221.00	2,266.00	4,228.00	6,192.00
Elementary Tuition	3,000.00	144.00	30.00	54.00	80.00
Elementary Debt Service	279,354.00	74,807.00	15,108.00	38,187.00	41,284.00
Elementary Comp. Insurance	120,470.00	31,362.00	6,334.00	11,817.00	17,308.00
High School General	6,074,035.00	468,984.00	94,717.00	176,711.00	258,823.00
High School Transportation	164,462.00	20,860.00	4,213.00	7,860.00	11,512.00
High School Bus Reserve	87,894.00	4,747.00	958.00	1,788.00	2,620.00
High School Tuition	3,500.00	288.00	58.00	109.00	159.00
High School Debt Service	791,933.00	167,453.00	33,819.00	63,095.00	92,414.00
High School Adult Ed	73,500.00	13,379.00	2,702.00	5,041.00	7,384.00
High School Comp. Insurance	57,737.00	15,249.00	3,080.00	5,746.00	8,416.00
High School Vo Education	105,793.00	32,656.00	6,595.00	12,304.00	18,022.00
<u>County Wide</u>					
Elementary 25 mills	1,200,000.00	359,650.00	72,636.00	135,514.00	198,484.00
High School 15 mills	765,000.00	215,790.00	43,581.00	81,309.00	119,090.00
Elementary Transportation	35,520.00	10,646.00	2,150.00	4,011.00	5,875.00
High School Transportation	19,380.00	5,467.00	1,104.00	2,660.00	3,017.00
Elementary Retirement	1,441,665.00	430,141.00	86,872.00	162,074.00	237,257.00
High School Retirement	663,197.00	196,369.00	39,659.00	73,991.00	108,372.00
Vo Education	76,500.00	21,579.00	4,358.00	8,131.00	11,909.00
TOTAL	\$24,707,417.00	\$3,648,578.00 (14.7%)	\$736,873.00 (20%)	\$1,375,364.00 (37.7%)	\$2,013,449.00 (55.2%)
		Impact on State (159,799.00)			
			(298,131.00)		(436,664.00)

es

2/7/83

WITNESS STATEMENT

Name Judi Bumbartson, jr. Committee On Education
 Address Helena Date 2/7/83
 Representing MT. ASSOC. SCHOOL RSY. Support ✓
 Bill No. 591 (Listed) Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- Teachers to ed. students approp.*
1. Intent of tenure to allow ~~approp. education~~ w/out undue pressure of relig./admin./community sources. This ^{need} certainly applies to the needs of "specialist" teachers (Sp./Bk/OT/PT).
 2. Specialists org. not addressed in law due to few no. 2. and usually teachers w/ some additional training (covered by tenure)
 3. w/increase in scope of students served in public ed. (handcarried) ^{the} ~~ready~~ need for more specialists, w/ add. education in variety of areas but who purpose ^{and job} ~~remains~~ the ed. of students; where we want some protection as reg. teachers.
 4. We are reg. by OPT. Class vs. reg. M.S. + curriculum reg.
 • We meet some cont. ed. reg.
 • We sign identical contracts, put up w/ same condit. of employment (w/ em. recks due to contract of state's fed laws we operate under).
 5. To deny and tenure is discriminatory
 6. RIF concerns can be distinct mandated. We are fed and our tenure is not a signif. risk to reg. ed. teachers or the districts that employ us.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

MONTANA SPEECH AND HEARING ASSOCIATION

February 7, 1983

House Education Committee:

As a representative of the Montana Speech and Hearing Association, I urge your support of House Bill 591 with our suggested amendment.

As you know, there are currently over 200 speech-language-hearing professionals working in the public schools in Montana. We are licensed by the Board of Speech Pathologists and Audiologists. Our credentialing law is such that we must have a Masters degree or equivalency to be fully licensed in the State of Montana.

Both the Office of Public Instruction and the Montana Board of Speech Pathologists and Audiologists have mandated/required superior qualifications for speech-language-hearing specialists to the point where a speech-language pathologist or audiologist must meet requirements superior to other teacher certification requirements. Therefore, to deprive a 4th year speech pathologist of tenure should easily be proven as discrimination. Only time stands between this antiquated law and the court test to prove its discrimination.

Also note that the speech-language-hearing professionals in the public schools sign identical contracts as certified teachers, therefore agreeing to the same conditions of employment.

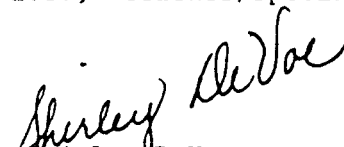
The speech-language pathologist and/or audiologist cannot obtain certification as the Office of Public Instruction has endorsed and relegated credentialing speech pathologists and audiologists to the Board of Speech Pathologists and Audiologists, i.e., if you have a license in speech pathology and/or audiology you are thereby approved to work in the public schools.

It is our feeling that the original teacher tenure law with the words "requiring teacher certification and excluding specialist" is discriminatory.

We would propose the following amendment to line 15 of HB 591 which would give licensed professionals working in the schools the same tenure rights given to certified teachers.

Line 15 "position requiring teacher certification and/or state licensure in a specific profession".

To make the law more consistent with the proposed amendment, the word "specialist" could be added wherever the law refers to teacher, i.e., "teacher/specialist".


Shirley DeVoe
Speech/Language Pathologist

STANDING COMMITTEE REPORT

February 14,

23

19.....

SPEAKER:

MR.

EDUCATION AND CULTURAL RESOURCES

We, your committee on

HOUSE

552

having had under consideration Bill No.

first

white

_____ reading copy (_____)
color

"AN ACT TO REQUIRE THAT THE BALLOT FOR A PROPOSITION FOR A SCHOOL DISTRICT ADDITIONAL LEVY STATE THE AMOUNT OF THE TOTAL GENERAL FUND BUDGET AND THE PERCENTAGE CHANGE FROM THE PREVIOUS YEAR'S TOTAL GENERAL FUND BUDGET; AMENDING SECTION 20-9-353, MCA."

HOUSE

552

Respectfully report as follows: That..... Bill No.

~~XXXXXX~~
DO PASS

DO NOT PASS

STANDING COMMITTEE REPORT

February 16, 83

19.....

SPEAKER:

MR.

EDUCATION AND CULTURAL RESOURCES

We, your committee on

having had under consideration **HOUSE** Bill No. **591**

first **white**
reading copy ()
color

"AN ACT TO ALLOW A TEACHER WHO IS A SPECIALIST THE SAME OPPORTUNITY
FOR TENURE THAT OTHER TEACHERS ARE OFFERED; TO REMOVE THE AGE
DISCRIMINATION PROVISION FROM THE LAW GOVERNING TENURE; AMENDING
SECTIONS 20-4-203 AND 20-4-204, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **591**

be amended as follows:

1. Title, lines 4 through 6.

Following: "ACT"

Strike: remainder of line 4 through "OFFERED;" on line 6

2. Page 1, line 16.

Following: "specialist"

Insert: "or specialist"

AND AS AMENDED

DO PASS.