

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

January 11, 1985

The second meeting of the Senate Education and Cultural Resources Committee was called to order by the Chairman, Senator Chet Blaylock, on January 11, 1985, at 1:00 p.m. in Room 402, State Capitol Building.

ROLL CALL: Roll was called and all members of the committee were present.

CONSIDERATION OF SENATE BILL 18

SENATOR JOE MAZUREK, District 23, sponsor of the bill, stated those serving on the interim committee on tenure were Senators Haffey, Hammond and Tveit and Representatives Pavlovich, Hannah, Ferris and Jones. This bill is one of two bills which the committee recommended. Neither of the two bills propose any major change in teacher tenure.

Senator Mazurek introduced Andrea Merrill as the interim committee reasearcher and praised her for an excellent job.

Senator Mazurek explained that it takes three years for a teacher to acquire tenure and in acquiring tenure the teacher gets the right to be advised as to the reasons for termination and an opportunity to be heard and contest those reasons. The committee, in their investigation, was satisfied that the tenure system was working well enough that no substantive modifications were necessary. There are some gains being made by administrators in evaluations of teachers for constructive purposes and for termination when necessary. This bill is narrow in its scope. The committee found the appeals process of a teacher who is terminated or not renewed while under contract, tenured or not, is cumbersome. He said they wrestled with this problem and decided that politically there was nothing they could do to streamline the process except for one small step which resulted in this bill.

Currently, if a superintendent decides that a tenured teacher should not be renewed, the superintendent takes that information to the Board of Trustees, and if they are of the same opinion, the teacher must be notified before the first of April. The teacher can then request a list of reasons for the termination within ten days after the judgement, then within ten days of the receipt of that notice can ask for a second hearing of

the Board for reconsideration. If no decision is made at that time, the decision goes to the County Superintendent; from there it can be appealed to the Office of Public Instruction. Further appeals can be made to District Court and the Supreme Court. It sometimes takes three or more years to get a final decision. The law provides for adequate review procedures but they are terribly time consuming.

Senator Mazurek called attention to the fact that the intent was not to change the provisions of the existing law, only the procedure. He pointed out the new language in the bill on page two and then reviewed the entire bill for the committee. The new process allows the teacher, those presenting the charges, i.e., superintendent, principal, county superintendent, to appear together before the Board in a one step hearing process.

PROPONENTS

WAYNE BUCHANAN, representing the Montana School Board Association, stated this committee worked as hard as any committee he has ever seen and developed a deceptively good bill. Mr. Buchanan stated in Montana there is a sort of "Alice in Wonderland" process to terminate a tenured teacher, i.e., "first of all we'll give the prizes and then we will have the game". According to current law, a decision to dismiss a teacher is made by the School Board and a hearing is held with the teacher appearing and trying to get the Board to change its mind. School Boards should serve as an impartial hearing body and many Boards are now following the procedures outlined in this bill. He urged passage of the bill.

PHIL CAMPBELL, representing the Montana Education Association, stated this is a good bill, but suggested two amendments (Exhibit 1). First, to reinsert "clearly and explicitly" in page two, line 24; second, to strike "or without" page 5, line 23. He pointed out a case in Missoula which was referred to OPI, the decision being you cannot suspend someone without pay without a hearing because you take away their financial resources to defend themselves.

TERRY MINOW, representing the Montana Federation of Teachers, urged passage of SB 18.

JESSE W. LONG, representing the School Administrators of Montana, voiced their support of the bill.

RICHARD TRERISE, representing the Montana Association of County Superintendents of Schools, stated they would like to go on record as supporting the bill. He stated a School Board often makes a decision on the recommendation of the administrator and they are reluctant to go back and change that decision.

BILL ANDERSON, Office of Public Instruction, spoke in support of the bill. He felt the strong points of the bill are 1) the teacher will be notified of his or her rights, 2) the School Board will be kept in the hearing process even though the recommendation has been made to them by the administrator, and 3) the length of time to get an answer is shortened.

DON WALDRON, Hellgate Elementary District, Missoula, said he has some concerns with the wording of the bill. He said normally a principal does not sit down in his office one day and decide to fire a teacher, it is well thought out. The Board then acts on the decision and recommendation of the administrator rather than initiating action on its own.

SENATOR SMITH asked the committee the reasons for the deletions.

SENATOR MAZUREK said the committee may have felt the language was redundant but now he suspects that by taking it out it may be misinterpreted.

SENATOR YELLOWTAIL asked Mr. Campbell the major reasons for dismissal of a teacher.

MR. CAMPBELL stated the only reasons for dismissal while under contract, tenure or otherwise, as specified in the statutes, are immorality, unfitness, incompetence, and failure to follow policies.

SENATOR MAZUREK closed on SB 18 and stated Mr. Waldron of Missoula did raise a point about the trustees not being able to terminate.

There were no further proponents and no opponents to the bill.

COMMITTEE DISCUSSION

SENATOR BLAYLOCK commented that in the State of Montana the Constitution does give the School Board the power to run the schools.

SENATOR SMITH asked if the School Board has the power to terminate the administrator if he does not act on their behalf.

SENATOR PINSONEAULT said getting an attorney involved slows down the process. He feels the facts should be put together and sent to the Superintendent to do a paper review, then to

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OPI for the de-novo at that level.

DICK TRERISE, Lewis and Clark County Superintendent of Schools, said that the de-novo hearing has to be based on the reasons the trustees started with. The de-novo hearing is before an impartial hearing officer and the School Board cannot be there. The issue being if you are going to have an impartial hearing it should be at the local and not the state level.

The hearing was closed on SB 18.

ACTION ON SENATE BILL 18

SENATOR HAFHEY asked Andrea Merrill, researcher, to respond to the possible hole left in the bill regarding the trustees' power.

ANDREA MERRILL said that if it is a problem in one place, it will be all the way through the bill, therefore, subsection (1) (a) at the bottom of page 2 an amendment could be made that says "nothing in this bill would prohibit the board of trustees from resolving to terminate or dismiss a teacher without a recommendation". This would almost give them the power they have right now.

After some discussion, it was decided the amendment was not necessary.

SENATOR HAFHEY MOVED TO AMEND THE BILL AS PER AMENDMENT #1, ATTACHED STANDING COMMITTEE REPORT (EXHIBIT #2).

SENATOR SMITH still questioned the necessity for the extra words.

THE MOTION CARRIED with Senator Smith voting no.

SENATOR HAFHEY MOVED TO AMEND THE BILL AS PER AMENDMENT #2, ATTACHED STANDING COMMITTEE REPORT (EXHIBIT #2).

THE MOTION PASSED UNANIMOUSLY.

SENATOR HAFHEY MOVED SB 18 DO PASS AS AMENDED.

THE MOTION PASSED UNANIMOUSLY.

ADJOURNMENT: There being no further business, the meeting adjourned at 2:30 p.m.


Senator Chet Blaylock, Chairman

DATE _____

COMMITTEE ON Education

BILL NO. SB 18

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

MONTANA · EDUCATION · ASSOCIATION

proud of our past...confident in our future

EXHIBIT # 1
Jan. 11, 1985
Education and
Cultural Resources
SB 18

January 11, 1985

TO: Senate Education Committee
FROM: Montana Education Association
RE: SB 18

The Montana Education Association wishes to suggest the following amendments to Senate Bill 18:

Page 2, Line 24, after the word "state" insert the words "clearly and explicitly"...

Page 5, Line 23, delete the words "or without."

STANDING COMMITTEE REPORT

EXHIBIT # 2
Education and
Cultural Resources

January 11 1985

MR. PRESIDENT

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE BILL No. 18

first reading copy (white)
color

**PROVIDE TEACHER WITH NOTICE AND HEARING PRIOR TO DISMISSAL
UNDER CONTRACT**

Respectfully report as follows: That SENATE BILL No. 18

introduced bill be amended, as follows:

1. Page 2, line 24.
Following "state"
Insert: "clearly and explicitly"
2. Page 5, line 23.
Following: line 22.
Strike: "or without"

And, as so amended

DO PASS

~~DO NOT PASS~~

SENATOR CHET BLAYLOCK,

Chairman.