

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The twenty-third meeting of the Education and Cultural Resources Committee was called to order by Chairman Jack Sands, on March 13, 1987, at 1:00 p.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 68:

SENATOR DEL GAGE, Senate District No. 5, sponsor of the bill, stated SB # 68 came about as a result of the computer age. The school districts are using software that has a clearing account through which they run all their warrants. They have by law or rule not been allowed to use clearing accounts as a part of their system of accounting, and are getting written up in the audits because of the fact that they are using these clearing accounts and those accounts are not budgeted accounts but are an accounting mechanism which allows them to reconcile their account with the treasurer's office easier. He stated this bill authorizes the school district to use a clearing account in their accounting system but does not allow them to use it as a budget account. He noted there was a suggested amendment that would allow an elementary and a high school district in a unified district where the accounting is being done by one clerk to be able to use one clearing account, but they would not be allowed to commingle funds from those districts.

PROPOSERS:

DON WALDRON, Legislative chairman of the School Administrators of Montana rose in support of the bill, he said many of the districts are already using the system and the auditors are very lenient as long as the districts don't have funds sitting idle where it is an in and out account. He urged the committee's support.

JOHN CAMPBELL, representing the Montana School Business Officials Association, stated this bill would allow them to practice the state of the art in governmental accounting. He noted that monies are placed in the clearing account as warrants are written, and are only in the clearing account waiting for the check to clear the banking system and be presented to the county treasurer for honoring and for payment of cash. He asked for support of the bill.

BOB STOCKTON, Office of the Superintendent of Public Instruction rose in support of the bill.

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OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE:

In response to a question from REP. EUDAILY, Mr. Campbell said that as the checks are written there is a transfer from the several different funds of cash from the county treasurer's to be made from those various funds to the clearing account. As the check is presented for payment the money is taken from the clearing account, so on the normal course, checks or warrants are presented for honoring, and if someone is slow in presenting their check the money might lay there awhile.

SENATOR GAGE closed by saying they had checked around the state to see if there were districts that were not unified that were using the same accounting system and they could not find any.

CONSIDERATION OF SENATE BILL NO. 133:

SENATOR AL BISHOP, Senate District No. 46, sponsor of the bill stated the bill was requested by the Montana Association of School Business Officials. He said the bill was intended to coincide the elementary schools tuition payments with the high school district tuition payments, which are one half of the tuition not later than the end of December and the other half by June 15th.

PROPONENTS:

JOHN CAMPBELL, representing the Montana School Business Officials, rose in support of the bill. He said they had proposed the bill in order to make it equitable as far as the method of payments of tuition between elementary and high school districts. As a point of clarification he noted that tuition is paid the year after attendance. He felt it would be more equitable if the sending school paid on a basis more close to their actual receipt of the money since the educating district had provided the education the preceding year.

BOB STOCKTON, Office of Public Instruction, said he supported the bill for the sake of uniformity. He reviewed the tax process and payment of tuition as it now stands and said it does not make sense that the sending school district should have the benefit of the interest when the student's education was financed the year before.

DON WALDRON, representing the School Administrators of Montana also rose in support of the bill.

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OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE:

REP. WILLIAMS questioned Mr. Campbell about the language in the bill "such payments shall be made whenever there is a sufficient amount of cash available" which was deleted. It assumes that there is always going to be sufficient amount of cash available, so what happens if there isn't sufficient money available. Mr. Campbell replied that in 99 percent of the cases there would be money available as the districts would have just received the first half of the property tax payment in the month of November for the December payment. He noted there is a chance that there might not be enough cash available as had occurred between the Jefferson County school district and the Helena School district because of the large protested taxes in Jefferson County, but that the two school districts were able to work it out amongst themselves.

REP. WILLIAMS then asked if Mr. Campbell didn't see any problem with there being a definite statutory law that a school district would have to meet that payment, because due to reappraisal there are going to be a lot of protested taxes. Mr. Campbell responded that there is another solution and that would be for the paying school district to issue a registered warrant for payment. SENATOR BISHOP also responded to REP. WILLIAMS question by noting there is a maxim of jurisprudence that says the law does not require the impossible, so if they just couldn't pay it, they could not pay it, and there is no penalty in this bill for breaking the law anyway.

In response to a question from REP. EUDAILY, Bob Stockton explained that the tuition fund is raised on local property tax, a permissive tax. He added that the formula calculates the maximum tuition that a school district can pay. It is calculated on the basis of the expenditures of the school district during the year in which it educated the child, minus all of foundation program and state permissive monies. Therefore, it is paying the school district only the actual taxes raised on property taxes.

SENATOR BISHOP closed by thanking the committee for allowing him to appear.

CONSIDERATION OF SENATE BILL 231:

SENATOR BILL YELLOWTAIL, Senate District No. 50, sponsor of

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the bill stated the bill related to the creation of new high school districts. He noted the only change in the bill occurs on page 4, line 6, a two word bill. As the law stands now, upon approval for the creation of a new high school district, the new school has one year within which to be up and running or else the creation of the new district is null and void. As a practical matter that is absolutely unrealistic, he said, because a new school district has to get a physical plant up and running, hire a faculty, provide the curriculum etc. and that is not possible within a one year period. So in order to make this provision consistent with the provision for an elementary school district and to make it realistic, this bill would provide for a two year period, from the time of approval of the district to the time a school must be operating.

PROPOSERS:

GILE MITCHELL, representing the OPI, said he concurred with the bill.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE:

REP. THOMAS asked SENATOR YELLOWTAIL if there were any districts that this bill would immediately apply to. SENATOR YELLOWTAIL replied there was one petition underway that he became aware of after he had written the bill which is the Heart Butte community.

REP. EUDAILY questioned if a new district was created and they did not get it setup but they collected taxes for those two years, what would happen to those taxes. Mr. Stockton answered that the first year, there would be no taxes levied because the creation date would be too late for them to adopt a budget and pass any taxes, and that is why it is so difficult under the one year setup. The second year taxes could be charged for, and could be for the hiring of the clerk of the school district and doing the necessary things that a school district might have. He explained if there were any taxes left over that had been collected but not expended when the order was rescinded, then those monies would revert to the high school district in which they were created out of.

SENATOR YELLOWTAIL closed by thanking the committee for the hearing.

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CONSIDERATION OF SENATE BILL NO. 196:

SENATOR BOB BROWN, Senate District No. 2, sponsor of the bill, stated the bill would allow certain professionals to become members of the teachers retirement system. He explained that teachers and staff members of the OPI could participate in the same program for retirement but staff members of the board of public education were unable to. He noted it was brought to his attention by Claudette Morton who had been a teacher, a staff member of OPI and now is the executive secretary to the board of public education. She wanted to continue to participate in the teachers retirement program. He said after the bill was drafted, it was noted that school nurses, psychologist, speech therapists also fit into the same category and wanted to be included in the bill also.

PROPONENTS:

DAVE SENN, Administrator of the Teachers Retirement Division, offered an amendment to include school nurses, school psychologists, and speech therapists in the bill applicable to only those hired after July 1, 1987. He urged the committee to concur in SB # 196. A copy of his testimony is attached as EXHIBIT NO. 1.

ERIC FEAVER, President, Montana Education Association rose in support of SB # 196. He said the testimony that has already been given shows a certain inequity and that this bill would correct that inequity and perhaps correct confusion as well with some employees who are not teachers who seem to be in come confusion as to whether they are in teachers retirement system, public employees retirement system or private annuities.

CLAUDETTE MORTON, Executive Secretary of the Board of Public Education rose in support of the bill. A copy of her testimony is attached as EXHIBIT NO. 2.

GILE MITCHELL, Office of Public Instruction urged the committee's support of the bill for reasons previously stated.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE:

REP. NELSON asked Dave Senn why he hadn't included the staff of the board of public instruction in his amendment that applied to the speech therapists, school nurses and psychologists. Mr. Senn replied that the board of public education

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isn't currently covered under teachers retirement and that Claudette Morton is the only professional staff on the board that would be covered in this position, and as she has 17 years in teachers retirement he would like to allow her to move over and just continue her service.

A question and answer period followed concerning whether teachers will be allowed to buy back previous service if they were employed prior to July 1, 1987.

In response to a question by REP. EUDAILY, Claudette Morton explained that the board of public education does not have any instructional staff presently but that language was used to be consistent with the language in the bill for other agencies and also with the hope that sometime in the future the legislature might give the board some instructional staff.

REP. STANG questioned SENATOR BROWN why he used the word "requiring" instead of "allowing" certain professionals in the title of the bill. SENATOR BROWN responded that section 1 of the bill indicates that you have to be a participant in some retirement system, and apparently it isn't a matter of choice, so if the educational employees want to be in the teachers retirement system, and most of them are there, and the board of education staff would certainly seem to be educational employees, then that is where they most appropriately belong.

SENATOR BROWN closed.

EXECUTIVE SESSION:

ACTION ON SENATE BILL NO. 196:

REP. WILLIAMS moved SB # 196 BE CONCURRED IN; he then moved the amendments; the question was called; the motion CARRIED. CHAIRMAN SANDS called for further discussion on the bill, hearing none, the question was called, the motion CARRIED.

ACTION ON SENATE BILL NO. 231:

REP. LORY moved that SB #231 BE CONCURRED IN. The question was called, the motion CARRIED.

ACTION ON SENATE BILL NO. 133:

REP. EUDAILY moved that SB # 133 BE CONCURRED IN, the motion CARRIED.

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ACTION ON SENATE BILL NO. 68:

REP. LORY moved that SB # 68 BE CONCURRED IN and REP. EUDAILY moved the amendment. CHAIRMAN SANDS reviewed the amendment on page 1, lines 19 and 20 to strike subsection 2 in its entirety and insert "to an elementary school district and a high school district that are unified may use the same clearing account if the account is maintained in accordance with rules adopted by the superintendent of public instruction". The question was called on the amendment, the motion CARRIED. REP. LORY moved that SB # 68 BE CONCURRED IN AS AMENDED, the motion CARRIED.

ACTION ON SENATE BILL NO. 232:

REP. SWYSGOOD moved that SB # 232 BE CONCURRED IN, the motion CARRIED.

ACTION ON SENATE BILL NO. 38:

REP. NISBET moved that SB # 38 BE NOT CONCURRED IN, he then handed out an amendment, EXHIBIT NO. 3, and moved the amendment. He explained under the amendment rather than increasing the divisor each year for calculating the ANB you would leave it at 180 days and reduce the pupil instruction days by one each year which is the opposite of what the bill now contains.

A question and answer period followed concerning the districts decreasing the number of PI days. The question was called on the amendment, the motion CARRIED.

REP. NISBET moved that SB # 38 BE NOT CONCURRED IN AS AMENDED. CHAIRMAN SANDS stated he thought this was a cost savings bill that the committee should give some serious consideration to as the fiscal note shows there would be a savings of almost \$3 million dollars for the biennium. REP. WILLIAMS said he had a different viewpoint in that it doesn't appear the legislature would be putting any more money in the foundation program and if they hold at zero-zero funding they would be fortunate. And under those circumstances and the pressure the school districts are now under, he would hate to put them under any more duress and so would support the motion to do not concur in.

A question and answer period followed regarding whether the fiscal note actually reflects the actual costs. REP. EUDAILY explained that there are some schools who go longer school years with the pupils than other schools, still

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everyone divides by 180 days to get their ANB. If a school has 190 days of ANB, and it divides by 180 they inflate their ANB that much. If you go 180 days and you divide by 180 you end up with one but if you divide into 190 you end up with 1 plus and so those people are getting the benefit of going the extra time. So what this bill is aimed at is to get every district back to the 180 days. He stated in view of the fact there must be a fiscal impact with the amendments that have been added, he would request the chairman ask for a revised fiscal note. CHAIRMAN SANDS said if that met with the concensus of the committee he would do that and pass consideration on SB # 38 for the day.

ADJOURNMENT:

There being no further business to come before the committee the meeting adjourned at 2:10 p.m.



REP. JACK SANDS, CHAIRMAN

DAILY ROLL CALL

EDUCATION AND CULTURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date MARCH 13, 1987

| NAME | PRESENT | ABSENT | EXCUSED |
|----------------------------------|---------|--------|---------|
| REP. JACK SANDS, CHAIRMAN | X | | |
| REP. RICHARD NELSON, VICE CHRMN. | X | | |
| REP. FRITZ DAILY | X | | |
| REP. RALPH EUDAILY | X | | |
| REP. WILLIAM GLASER | X | | |
| REP. DAN HARRINGTON | X | | |
| REP. NANCY KEENAN | X | | |
| REP. ROLAND KENNERLY | X | | |
| REP. EARL LORY | X | | |
| REP. JOHN MERCER | X | | |
| REP. GERALD NISBET | X | | |
| REP. JOHN PHILLIPS | X | | |
| REP. TED SCHYE | X | | |
| REP. BARRY STANG | X | | |
| REP. TONIA STRATFORD | X | | |
| REP. CHARLES SWYSGOOD | X | | |
| REP. FRED THOMAS | X | | |
| REP. MEL WILLIAMS | X | | |
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STANDING COMMITTEE REPORT

MARCH 13, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report SENATE BILL NO. 68

do pass

do not pass

be concurred in

be not concurred in

as amended

statement of intent attached

REP. JACK SANDS,

Chairman

1. Page 1, lines 19 and 20.

Strike: subsection (2) in its entirety.

Insert: "(2) An elementary school district and a high school district that are unified may use the same clearing account if the account is maintained in accordance with rules adopted by the superintendent of public instruction."

7072a:C/JEANNE\W2:jj

REP. LORY WILL CARRY THE BILL IN THE HOUSE OF REPRESENTATIVES

THIRD

reading copy (

BLUE

color)

STANDING COMMITTEE REPORT

MARCH 13, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report SENATE BILL NO. 133

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

REP. JACK SAIDS,

Chairman

REVISE TUITION PAYMENTS FOR ELEMENTARY SCHOOL DISTRICTS

See back

REP. STANG WILL CARRY THIS BILL IN THE HOUSE OF REPRESENTATIVES

THIRD

reading copy (BLUE)

color

STANDING COMMITTEE REPORT

MARCH 13, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report SENATE BILL NO. 133

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. JACK SANDS,

Chairman

REVISE TUITION PAYMENTS FOR ELEMENTARY SCHOOL DISTRICTS

REP. STANG WILL CARRY THIS BILL IN THE HOUSE OF REPRESENTATIVES

THIRD reading copy (BLUE)
color

STANDING COMMITTEE REPORT

MARCH 13, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report SENATE BILL NOL 196

- do pass be concurred in as amended
 do not pass be not concurred in statement of intent attached

REP. JACK SANDS,

Chairman

REQUIRE PUBLIC EDUCATION BOARD STAFF TO JOIN TEACHERS' RETIREMENT SYSTEM

1. Page 1, line 8.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 3.

Following: line 9

Insert: "NEW SECTION. Section 1. Applicability. This act applies to any speech therapist, school nurse, or school psychologist who was hired on or after July 1, 1987."

7072b/C:JEANNE\WP:jj

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REP. EUDALLY WILL CARRY THIS BILL IN THE HOUSE OF REPRESENTATIVES

THIRD reading copy (BLUE)
color

STANDING COMMITTEE REPORT

MARCH 13,

19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report SENATE BILL NO. 231

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. JACK SANDS,

Chairman

**ALLOW A NEW HIGH SCHOOL 2 YEARS TO OPEN A SCHOOL BEFORE CREATION
ORDER ENDS**

REP. STANG WILL CARRY THE BILL IN THE HOUSE OF REPRESENTATIVES

THIRD

BLUE

reading copy (_____)
color

STANDING COMMITTEE REPORT

MARCH 13, 1987

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report SENATE BILL NO. 231

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. JACK SANDS,

Chairman

ALLOW A NEW HIGH SCHOOL 2 YEARS TO OPEN A SCHOOL BEFORE CREATION
ORDER ENDS

REP. STANG WILL CARRY THE BILL IN THE HOUSE OF REPRESENTATIVES

THIRD reading copy (BLUE)
color

STANDING COMMITTEE REPORT

MARCH 13,

19 37

EDUCATION AND CULTURAL RESOURCES

Mr. Speaker: We, the committee on

report **SENATE BILL NO. 232**

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. JACK SWINS,

Chairman

SUSPENSION AND REVOCATION OF TEACHER CERTIFICATES

(Rec of previous page)

REP. LORY WILL CARRY THE BILL IN THE HOUSE OF REPRESENTATIVES

THIRD

BLUE

reading copy ()

color

STANDING COMMITTEE REPORT

MARCH 13, 19 87

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report SENATE BILL NO. 232

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. JACK SANDS,

Chairman

SUSPENSION AND REVOCATION OF TEACHER CERTIFICATES

REP. LORY WILL CARRY THE BILL IN THE HOUSE OF REPRESENTATIVES

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color

Senate Bill 196

TESTIMONY
presented by
David L. Senn
Teachers' Retirement Division

TITLE

An act requiring certain professionals to become members of the Teachers' Retirement System.

The Teachers' Retirement Board supports senate bill 196. In 1944 the Board adopted a rule to require school nurses be covered under the Teachers' Retirement System. Since that time the law, which this rule was based upon, has changed and the Board's authority to enforce this rule has been questioned. The attorney for the Retirement Board recommended they pursue legislation to cover school nurses. They also decided to cover speech therapists and school psychologists at this time.

Another group that is being required to belong to Teachers' Retirement by this legislation is the professional staff at the Board of Public Education. In 1950 the Retirement Board adopted a rule requiring that the professional staff of the Board of Education be covered under the Teachers' Retirement System. Since that time the Board of Education has been divided into the Board of Higher Education and the Board of Public Education. While the Board of Higher Education continues to be covered to this day under the Teachers' Retirement System, the professional staff of the Board of Education has not. The Retirement Board believes that they too should be members of the Teachers' Retirement System.

We urge your approval of this bill in order that these professional positions may continue to be covered under Teachers' Retirement System.

DLS:dlh

Proposed Amendment Senate Bill 196

1. Page 3, line 8, insert: New Section 3. Applicability. This act applies to speech therapists, school nurses, and school psychologists who were hired on or after July 1, 1987.
2. Renumber section 3.



Board of Public Education

EXHIBIT 2
DATE 3-13-87
B # 196

BOARD MEMBERS
EX OFFICIO MEMBERS:

- Ted Schwinden, Governor
- Ed Argenbright, Superintendent of Public Instruction
- Carrol Krause, Commissioner of Higher Education

APPOINTED MEMBERS:

- Ted Hazelbaker, Chairman
Dillon
- Alan Nicholson, Vice-Chairman
Helena
- James Graham
Ismay
- Sarah "Sally" Listerud
Wolf Point
- Arthur "Rocky" Schauer
Libby
- Bill Thomas
Great Falls
- Thomas A. Thompson
Browning

TESTIMONY TO THE HOUSE EDUCATION COMMITTEE
ON MARCH 13, 1987

IN SUPPORT OF SB196 -- REQUIRE PUBLIC EDUCATION BOARD
STAFF TO JOIN TEACHERS' RETIREMENT SYSTEM

By Claudette Morton, Executive Secretary
Board of Public Education

Claudette Morton
Executive Secretary

The Board of Public Education requested SB196 as a house-keeping measure. Currently, Sec. 19-4-302 MCA (Montana Code Annotated) defines the groups which can be included in the Teacher's Retirement System. All educational groups, including the Office of Public Instruction and the Montana University System, are included except the employees of the Board of Public Education. This appears to be an oversight since the Board of Public Education is constitutionally responsible for supervision of the public school system, legislatively responsible for defining teacher certification and, thus, should be eligible for appropriate membership in this retirement system.

When the staff of the Board of Public Education was part of the Office of Public Instruction they were covered by these provisions. It appears to be a simple oversight that when the Board staff was separated from OPI by the Legislature this matter was not handled.

Therefore, we would request your concurrence in support of SB196.

Amendments to SB 38

Third reading copy

1. Page 4, line 23.

Following: "UNLESS"

Strike: " IT"

Insert: " the district:

(a)"

2. Page 5, line 2.

Following: "1987"

Insert: "; or

(b) uses a divisor of 180 and reduces by 1 day the number of pupil-instruction days used in calculating the ANB in the current school fiscal year and in each ensuing school fiscal year until the number of pupil-instruction days equals 180."

