

MINUTES

MONTANA HOUSE OF REPRESENTATIVES  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By Chairman Ted Schye, on March 3, 1989, at 3:00 p.m.

ROLL CALL

Members Present: All with the exceptions of:

Members Excused: Vice-Chairman Fritz Daily and Rep. Ralph Eudaily

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council Researcher

Announcements/Discussion: None

HEARING ON SB 304

Presentation and Opening Statement by Sponsor:

Sen. Pat Regan, District 47, Billings stated SB 304 addresses a problem pointed out by the Legislative Auditor where there seems to be a conflict between the statutory language and the policy of the Board of Regents dealing with the University System tuition and fee waiver program. She said SB 304 is an act authorizing the Board of Regents to waive tuition and fees for native americans, certain military veterans, firefighters, and peace officers. Sen. Regan said the problem arises when fees not paid out of the General fund such as health, lab and dormitory fees are addressed. Sen. Regan also pointed out that the Board of Regents while granting fee waivers requires students to meet certain eligibility requirements such as GPA and limits the number of semesters to twelve or six years, which is very reasonable.

Testifying Proponents and Who They Represent:

LeRoy Schramm, Board of Regents  
Ed Flies, Montana State Council of Professional Firefighters  
Tom Harrison, Montana Sheriffs and Peace Officers Association  
Lyle Nagel, Montana State Volunteer Firefighters Association  
George Poston, United Veterans Committee of Montana  
John Den Herder, Department of Montana Disabled American Veterans

Proponent Testimony:

HOUSE COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

March 3, 1989

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LeRoy Schramm said SB 304 incorporates the provisions of HB 335 and HB 213 previously passed through the committee. He said the difference in approach to SB 304 and HB 335 is that SB 304 places all the statutory fee waivers such as the native american, custodial, senior citizen, and veteran fee waivers in one section of statute where they will be addressed in a like manner. Mr. Schramm said as mentioned by Sen. Regan there are some fees the Board of Regents have not paid and this clarifies and makes it permissible to continue the same policy. He said the Board of Regents will continue to waive registration and incidental fees and has no intention of changing eligibility requirements for veterans. Mr. Schramm also stated SB 304 will bring actual practice in line with present statute, bridging the gap the Legislative Auditor has complained of for many years.

Ed Flies said SB 304 is a good bill and recommended a favorable committee report.

Tom Harrison said SB 304 deserves a positive committee vote and sends a very good message to the members of his association.

Lyle Nagel stated support for SB 304.

George Poston stated support for SB 304 saying it is only fair that all veterans be included.

John Den Herder voiced support for SB 304.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Sen. Regan thanked the committee and said SB 304 is deserving of a favorable committee report.

DISPOSITION OF SB 304

Motion: Rep. Nelson made the motion that SB 304 BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Motion CARRIED upon unanimous voice vote. Rep. Cocchiarella will carry SB 304 in the House.

DISPOSITION OF SJR 6

Motion: Rep. Harrington made the motion that SJR 6 BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: Rep. Kilpatrick made the motion to amend SJR 6 and the motion CARRIED upon unanimous voice vote.

Recommendation and Vote: Rep. Cocchiarella made the motion that SJR 6 BE CONCURRED IN AS AMENDED. Motion CARRIED upon voice vote with Reps. Daily and Nelson voting no. Rep. Harrington will carry SJR 6 in the House.

HEARING ON SB 136

Presentation and Opening Statement by Sponsor:

Sen. Dennis Nathe, District 10, Redstone said SB 136 is an act to provide for transfer of a tenured teacher between teaching and administrative positions and basically is an act allowing a school district to transfer an administrator back to the classroom at the teacher salary schedule. He said the transfer is only allowed for economic reasons and that the new teaching salary allows consideration for all years of service within the district. SB 136 also provides for a due process hearing and rights of appeal to the County and State Superintendents and courts. Sen. Nathe also said the administrator who is transferred is entitled to the next administrative position within that school district. He stated that Section 3 of the bill is a new addition providing for temporary assignment of a teacher to an administrative position with amendments forthcoming from the Montana School Boards Association.

Testifying Proponents and Who They Represent:

Bruce Moerer, Montana School Boards Association (MSBA)

Proponent Testimony:

Bruce Moerer said SB 136 is necessary in light of the funding crisis the State of Montana and school districts are going through at the present time. He said that when designating "teacher" as far as the tenure laws are concerned, this includes all those certified whether they are instructional, supervisory or administrative staff and thus administrators have the exact same tenure as teachers. Mr. Moerer continued that tenure gives teachers or administrators protection they will be hired back in a comparable position and at least the same salary the next year unless they are terminated.

Mr. Moerer continued it not only makes poor economic sense to move an administrator to a teaching position with administrative pay and administrative future salary increments but it also causes morale problems among the other teachers. He said another problem with tenure comes with moving the administrator back to the classroom with the automatic right to bump another non-tenured teacher. The result is little savings to a district by the bumping of a non-tenured teacher and replacement with an administrator in the classroom at administrative salary.

Mr. Moerer said he has an amendment concerning page 4, line 4 beginning on page 3 that begins, "a temporary administrative assignment". Following assignment insert "is defined as the filling of an administrative vacancy created after July 1 of the school year or a vacancy caused by a board approved absence" then finishing the sentence on line 4. He said he would submit this amendment to the committee in writing.

Testifying Opponents and Who They Represent:

Pep Jewell, President-Elect, Montana Association of Elementary and Middle School Principals  
Lyle Eggum, Principal, East Helena  
Keith Kohnke, Representing School Administrators in Billings

Opponent Testimony:

Pep Jewell, (EXHIBIT 1.).

Lyle Eggum said schools are one of the biggest businesses in Montana towns and with leadership taken out of the schools they will cease to operate efficiently.

Keith Kohnke said SB 136 would make job security a thing of the past and that administrators would be the only school personnel in Montana having their salaries cut during economically pressured times. He said page 4, line 6, makes it possible that following a temporary assignment the teacher may be terminated the following year.

Questions From Committee Members: Rep. Darko said in her area of

Montana an administrative position was discontinued and the administrator went back into the classroom but when he did he automatically shifted to the bottom of the seniority list. She asked Bruce Moerer if the question of seniority is handled individually within the school district or under the collective bargaining agreement. Mr. Moerer answered the issue of seniority is a creature of the collective bargaining agreement and while this proposed statute gives salary protection the question of seniority will be

determined by the collective bargaining process.

Rep. Kilpatrick asked Bruce Moerer if an administrator is moved back to the classroom and there are no non-tenured teachers what would happen. Bruce replied under this statute you would have the right to remove the tenured teacher.

Rep. Zook asked Bruce Moerer if when an administrator moves back to the classroom he carries with him those years served as an administrator. Bruce answered that this is where we must distinguish carefully between years of tenure and years of seniority. He said if there is no collective bargaining agreement which sets forth policy on seniority it would be up to the district to decide whether or not that administrator could bump another tenured teacher. He continued there is no law at this time to address bumping rights between tenured teachers and basically it is up to the discretion of the board.

Chairman Schye then said to Sen Nathe he wanted to make sure if he understood correctly if the principal goes back into the classroom he or she will be offered the next administrative position for which they are endorsed. Sen. Nathe said that is correct.

Closing by Sponsor: Sen. Nathe thanked the committee and said many in the private sector have taken salary cuts due to the economic conditions in Montana in the last eight years and the education community should not feel they are being singled out. He closed by saying SB 136 is necessary legislation given the economic climate in which we are operating at present.

ADJOURNMENT

Adjournment: 4:30 p.m.

  
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REP. TED SCHYE, Chairman

TS/dlm

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DAILY ROLL CALL

EDUCATION & CULTURAL RESOURCES COMMITTEE

DATE March 3, 1989

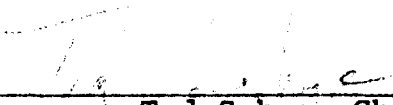
| NAME                            | PRESENT | ABSENT | EXCUSED |
|---------------------------------|---------|--------|---------|
| Rep. Ted Schye, Chairman        | ✓       |        |         |
| Rep. Fritz Daily, Vice-Chairman |         |        | ✓       |
| Rep. Vicki Cocchiarella         | ✓       |        |         |
| Rep. Paula Darko                | ✓       |        |         |
| Rep. Ervin Davis                | ✓       |        |         |
| Rep. Ralph Eudaily              |         |        | ✓       |
| Rep. Floyd Gervais              | ✓       |        |         |
| Rep. Bill Glaser                | ✓       |        |         |
| Rep. Dan Harrington             | ✓       |        |         |
| Rep. John Johnson               | ✓       |        |         |
| Rep. Tom Kilpatrick             | ✓       |        |         |
| Rep. Richard Nelson             | ✓       |        |         |
| Rep. John Phillips              | ✓       |        |         |
| Rep. Richard Simpkins           | ✓       |        |         |
| Rep. Wilbur Spring, Jr.         | ✓       |        |         |
| Rep. Barry "Spook" Stang        | ✓       |        |         |
| Rep. Fred Thomas                | ✓       |        |         |
| Rep. Norm Wallin                | ✓       |        |         |
| Rep. Diana Wyatt                | ✓       |        |         |
| Rep. Tom Zook                   | ✓       |        |         |
|                                 |         |        |         |

STANDING COMMITTEE REPORT

March 3, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that SENATE BILL 304 (blue reading copy) be concurred in.

Signed:   
Ted Schye, Chairman

[REP. COCCHIARELLA WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

*Amended  
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March 4, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that SENATE JOINT RESOLUTION 6 (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_  
Ted Schye, Chairman

[REP. HARRINGTON WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 3, line 1.

Following: "and"

Insert: "that the centers be granted the authority to award appropriate degrees for completion of 2-year programs and"

2. Page 3, lines 16 through 18.

Following: "SYSTEM," on line 16

Strike: remainder of line 16 through "AREAS" on line 18

Insert: "for the award of appropriate degrees to students who have successfully completed 2-year vocational-technical programs"



EXHIBIT # 1  
DATE 3-3-89  
HB SB 136

TO: House Education Committee

FROM: Pep Jewell, President-Elect, Montana Association of Elementary and Middle School Principals

RE: SB 136

DATE: 3/4/89

A form of this bill was submitted four years ago with far greater problems than it has now. The amendments offered in the Senate last month cleared up three problems. However, the following issues need to be addressed before it receives a recommendation of concurrence from you:

1. Is management different in the public schools than in state government? Case in point is Governor Stephens' proposal that he name division chiefs with those transferred receiving the same salary for a different position.
2. When the position is cut, the duties remain. Consider an amendment to the bill to place the administrator on the salary schedule with additional duties/additional days assigned to make up the difference in salary. Consider that the daily rate in pay in many districts is higher for teachers at the top of the schedule than administrators' daily rate, i.e. in Helena.
3. Consider an amendment to the bill to include seniority in the district as part of the reassignment. I would expect that this will be tested in court if it is not included.

The Association is not asking that an administrator continue with the administrative salary without additional duties. It is asking that economic tenure be retained with the same seniority rights as teachers.

The law classifies us as teachers in relation to tenure but does not speak to seniority except in collective bargaining agreements. This would put us in the situation of forming collective bargaining units.

Without these amendments, we recommend a do not concur.

VISITORS' REGISTER

House Education COMMITTEE

BILL NO. SB 304

DATE 3-3-89

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| NAME (please print)  | RESIDENCE   | SUPPORT | OPPOSE |
|----------------------|---|---------|--------|
| Lyle Nagel           | Mt. St. Vol. Fire fighters Assn<br>Box 93 Simms Mt. | ✓       |        |
| Tom Homovic          | MT Sheriffs + peace<br>officers assoc               | ✓       |        |
| Brian Harwin         | ASMSU   | X       |        |
| John M. DeWilder     | Dept of MT DAV                                      | ✓       |        |
| Edward L. Elias      | MT State Council of Police Firefighters             | ✓       |        |
| George O. Poston     | United Veterans Com. AMV                            | ✓       |        |
| Frank L. Spindelberg | MUAD  | ✓       |        |
| Ed Byrne             | Dept. Mt. Affairs                                   | ✓       |        |
| L. Roy H. Shramm     | Mt. Univ. System                                    | ✓       |        |
| Bill Fleiner         | Mount Sheriffs &<br>Peace Officers                  | ✓       |        |
| Henry E. John        | Mt. Vol. Firefighters Assn                          | X       |        |
| William A. Parker    | Richey  |         |        |
| Eric Flaver          | MEV   | ✓       |        |
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

House Education COMMITTEE

BILL NO. SB 136

DATE 3-3-89

SPONSOR Datke

| NAME (please print)  | RESIDENCE  | SUPPORT      | OPPOSE   |
|----------------------|------------|--------------|----------|
| PEP JEWELL           | HELENA MT  |              | ✓        |
| Bruce W. Maerer      | MSBA       | ✓            |          |
| David Willis         | POULSON    | <del>✓</del> |          |
| Michael Ellison Hill | Harlem, mt |              |          |
| Lyle Eggen           | Helena     |              | ✓        |
| Keith L. Kohrke      | Billings   |              | ✓        |
| William A. Parker    | Richey     | ✓ Generally  | ✓ Unless |
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