

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By Chairman Ted Schye, on March 13, 1989, at 3:00 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council Researcher

Announcements/Discussion: Chairman Schye stated that during this Executive Session on SB 136 both sides would be heard briefly followed by questions. He said if a question was asked of one side the other would have the opportunity to respond.

Bruce Moerer of the Montana School Boards Association (MSBA) thanked the committee for the opportunity to clarify some of the confusion surrounding SB 136 stating he didn't think the passage of legislation should be based upon confusion. However, when Chairman Schye mentioned he would like to bring SB 136 back into committee for this clarification Bruce said he responded with mixed emotions since it was already on the floor.

Mr. Moerer said the first item he would address is the amendment concerning the grandfathering in of existing administrators at current salaries which the committee added to the bill during Executive Action. He said the MSBA would like the bill returned to its original form and have the committee vote on the bill as originally intended (EXHIBIT 1.).

He said SB 136 is a very simple bill involving a policy decision and only applies when an administrator is moved back into the classroom, allowing for a reduction in salary. Right now the law states the administrator would be kept at an administrative salary level and this bill would allow the district to pay on the teacher salary schedule if they were reassigned to the classroom. Mr. Moerer stressed that this allows for a reduction but doesn't require one.

Mr. Moerer also said SB 136 does nothing to change the right of the trustees to reassign staff, whether they

be administrators or teachers and does not address any current conditions with the loss of seniority or the definition of tenure because administrators have the same tenure as teachers. He said SB 136 also does not affect the right of a tenured administrator when they are reduced to bump a non-tenured teacher, all of which is current law.

He wanted to be very clear that the intent of SB 136 is not to reduce teacher salaries but only applies when an administrator is reassigned to the classroom involving a substantial change in job responsibility and length of contract.

- Pep Jewell, President Elect, Montana Association of Elementary and Middle School Principals read submitted testimony, (EXHIBIT 2.).
- Rep. Glaser said since the committee heard from the school boards and administrators he would like to have Mr. Henry from the Billings Education Association, where this legislation originated, express his point of view.
- Rep. Daily stated objection to testimony from Mr. Henry at this time but would allow his remarks as long as he didn't go into great detail.
- Mr. Henry stated a double standard in budget reduction occurred last year in Billings where 106 non-tenured teachers were laid off. He said two non-tenured administrators were moved back into the classrooms to protect them, while in fact these administrators had a much higher salary which should not have been retained. He also said the burden is put on the youth to protect administrators standards, which is not fair to education as a whole.
- Bruce Moerer in response said that clarifies what the existing law already does and that administrators can be reassigned with no reduction of salary. He said SB 136 merely deals with the salary issue allowing for a reduction.
- Chairman Schye asked Mr. Henry if he felt many of the points lobbied for by the Billings Education Association really dealt with SB 136. Mr. Henry answered yes, because when these administrators are moved back to the classroom an inequitable situation is created whereby a teacher is next door to another who is maxed out on the salary schedule making \$6,000.00 more per year in salary. The Chairman then added SB 136 doesn't have anything to do with laying off tenured teachers or moving tenured teachers. Mr. Henry then stated the reason this issue became such a big one in Billings was that there was such a wide disparity in salary, if they had moved the non-tenured principals there would not

have been such a great disparity.

- Rep. Cocchiarella asked Bruce Moerer if an administrator who has been moved back into a teaching position could go back to the next administrative position for which he is endorsed and for example under this statute he has a superintendent's endorsement if it would be possible the next opening could be the superintendent's job. Mr. Moerer replied that if the tenure law is scrutinized you see that superintendents are treated separate from administrators and teachers in their own category.
- Rep. Eudaily said he if viewed the bill correctly the administrator who was moved back to a teaching position and retained the same salary could now receive a lesser salary, but upon obtaining another administrative position would receive a salary increase. Mr. Moerer said Rep. Eudaily's view was correct.
- Rep. Thomas asked Bruce Moerer if a superintendent moves a principal back into the classroom if that principal has the first right to the position when it re-opens and Bruce replied yes.
- Rep. Wallin asked Bruce Moerer if a teacher and principal had the same number of years experience and the principal was moved back into the teaching position if that was the result of seniority. Mr. Moerer answered that under the current tenure law if the administrator is certified or endorsed in a position held by a non-tenured teacher the administrator can bump that teacher. Mr. Moerer wanted to stress again the fact that SB 136 only affects the salary once the administrator is reassigned to the classroom, nothing more.
- Rep. Thomas then asked Bruce Moerer if when a principal is hired directly into the district as a principal and has not taught in that district and then is rolled back into the classroom is he protected under SB 136 the same as a principal who has taught in the district. Mr. Moerer said if that administrator doesn't have tenure, or a total of four years in the district, you have the same situation as if you hired an administrator from outside the district. At that point in time the administrator does not have the automatic right to bump a non-tenured teacher.
- Rep. Simpkins asked Bruce Moerer as far as retirement what salary would an administrator retire at if he had been reassigned to the classroom. Mr. Moerer responded that the Teacher's Retirement System computes retirement at the highest consecutive three year salary so if the administrator had been in that position for three

consecutive years that would be the salary basis for computation of retirement.

At this point in the discussion Mr. Moerer said he felt Ms. Jewell had not been given opportunity to respond and she said answered that she felt no reason to respond to previous questions since they were questions about the law and as staff attorney to MSBA Mr. Moerer had more knowledge and experience.

Rep. Simpkins asked Pep Jewell how the administrators feel and if it is clearly understood there is a possibility of being back in the classroom if a cut in a school budget happens. Ms. Jewell said it is difficult because we haven't been in the economic condition as we are now but generally when an administrator has been cut it has been a non-tenured administrator.

Rep. Simpkins also asked Ms. Jewell if it has been her experience that tenured teachers who move into the administrative field consider it to be a promotion. She answered that an administrator has to have three years teaching experience and generally it is a promotion economically but also a promotion in terms of responsibility.

Rep. Gervais then said he wished J. Henry Badt to comment on SB 136.

Mr. Badt said if SB 136 received a favorable recommendation it would mean that a principal would be the only individual affected by statutes and could have their salary reduced outside of the tenure law. He said he views it as an issue of fairness with this the only group of individuals in the school system to have their salaries reduced. He also said right now the entire issue is left wide open to the discretion of the superintendent in determining if there should be an administrative cut and perhaps the committee should look at setting a ratio considering reduction in student population and corresponding staff.

Rep. Darko stated as a tenured teacher she could have her salary cut if a change in position occurred. For instance, if her department didn't have enough enrollment they could cut the position, open it up as a half-time position and rehire her back at a lower salary.

Chairman Schye said he didn't think a teacher could be reduced in salary unless they agreed to take a half-time position and then at that time would receive half the salary they did previously. Bruce Moerer responded that this is a gray area in the tenure laws and when a position is reduced from full-time to half-time and the teacher is not certified or endorsed for anything else in that district there is a problem. He said you would

terminate the teacher and offer them the half-time salary and if they accept the half-time voluntarily they receive a corresponding salary.

Rep. Zook asked Mr. Henry what according to the Accreditation Standards are the figures set by the Board of Public Education for student to principal ratios. Mr. Henry replied that if a high school has more than 250 students you would have to employ at least a half-time principal and if the student population rose to 500 there must be a full-time principal.

Chairman Schye asked Pep Jewell if principals have bargaining power with the school board like the MEA. Ms. Jewell said the only school district that allows that is Butte.

Chairman Schye said one of the problems he has with SB 136 is the wide margin of disparity between principal and teacher salaries. He asked Mr. Henry if he believed there is that great disparity and Mr. Henry responded that it would vary district to district depending on what the top teacher and principal salaries were. He said he didn't believe that was the case in his district and that his concern was that the higher paid principals were the principals moving back to the classrooms to save those non-tenured teachers.

Rep. Cocchiarella asked Mr. Henry if there was some kind of seniority protection for principals in their bargaining agreement and he replied there was.

Rep. Spring then commented that education had been spoiled and saved from cuts for many years and it was reality time given the economic realities.

Rep. Daily stressed this is a "Billings Bill" due to the irresponsible manner in which the Billings School Board acted.

Rep. Eudaily said there will always be differences between administrators and teachers and that they don't crop up overnight. He said if Billings had a problem why didn't the school district get together and settle it. He said it doesn't make sense the Legislature is being asked to settle their problems.

Chairman Schye then stated in closing that the real danger he could see with SB 136 is that it will get easier in future sessions to ask for lowering of tenured teacher salaries.

Motion: None

Discussion: None

Amendments, Discussion, and Votes: Rep. Daily made the motion to strike the House Amendments from the bill (EXHIBIT 3.) since the bill was presented by the Montana School Boards Association (MSBA) and the MSBA wants the committee to vote the bill as was intended. Motion CARRIED upon voice vote with Reps. Eudaily, Glaser, Kilpatrick, Phillips and Chairman Schye voting no.

Recommendation and Vote: Rep. Daily made the motion to TABLE SB 136 and the motion FAILED upon Roll Call Vote 9 yes, 11 no.

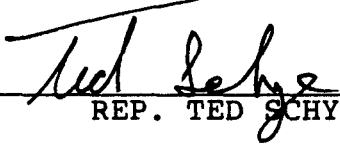
Rep. Darko made the motion to amend SB 136 by striking Section 3 in its entirety. The motion CARRIED upon unanimous voice vote.

Rep. Darko then made the motion that SB 136 BE CONCURRED IN AS AMENDED and the motion CARRIED upon unanimous voice vote.

Rep. Davis asked the committee to reconsider and then made the motion that SB 136 BE NOT CONCURRED IN AS AMENDED. Roll Call Vote was taken on a BE CONCURRED IN AS AMENDED for SB 136 and the motion FAILED 9 yes, 11 no. The votes were reversed upon a motion by Rep. Daily and unanimous voice vote sending SB 136 to the House with a BE NOT CONCURRED IN AS AMENDED recommendation.

ADJOURNMENT

Adjournment At: 4:30 p.m.



REP. TED SCHYE, Chairman

TS/dlm

6204.min

DAILY ROLL CALL

EDUCATION & CULTURAL RESOURCES

COMMITTEE

DATE March 13, 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 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources, having reconsidered SENATE BILL 136 (third reading copy -- blue), report that Senate Bill 136 be NOT concurred in as amended.

Signed: Ted Schye
Ted Schye, Chairman

[REP. SCHYE WILL PRESENT THIS ADVERSE REPORT ON THE HOUSE FLOOR]

And, that such amendment read:

1. Page 1, line 11.

Strike: "sections"

Insert: "section"

Strike: "and 3"

2. Pages 3, line 25 through page 4, line 13.

Strike: section 3 in its entirety

Renumber: subsequent section

3. Page 4, line 15.

Strike: "Sections"

Insert: "Section"

Following: "2"

Strike: "and 3"

Strike: "are"

Insert: "is"

4. Page 4, line 17.

Strike: "sections"

Insert: "section"

Following: "2"

Strike: "and 3"

EXHIBIT # 1
DATE 3-13-89
HB SB 136

PROPOSED AMENDMENT TO SB 136

3rd Reading (Blue) Copy

Page 3, line 25:

Delete: Section 3 in its entirety

TO: House Education Committee

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

RE: SB136

DATE: 3/12/89

In assessing the impact of SB 136, principals and personnel directors find a number of unanswered questions. Rather than contributing to the confusion and muddying the waters, I will focus on one issue: the definition of teacher tenure.

For the purpose of tenure, Montana law defines principals as teachers. At this time, economic tenure is the only tenure principals have. They do not have seniority rights as a result of a collective bargaining unit. The only other tenure they would have would be over non-tenured teachers as they would have no seniority for years in the district when they return to the classroom.

By removing economic tenure, there are no benefits to tenure. In effect, the principals would have the same lack of security as superintendents, but not the salary.

To counteract the result of this bill--the loss of economic tenure for principals only, not other teachers--consideration needs to be given to two areas:

1. giving principals the right to a collective bargaining unit
2. placing principals on the teacher seniority list in the district, a recognition of the years of service to the district

These two actions would give one set of teachers (administrators) the same rights as other teachers: the security of tenure less the economic tenure other teachers would retain.

Please give this bill a do not concur recommendation because of the tenure issue.

EXHIBIT # 5
DATE 3-13-89
HB SB 136

STANDING COMMITTEE REPORT

March 7, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that SENATE BILL 136 (third reading copy -- blue) be concurred in as amended.

Signed: Ted Schye
Ted Schye Chairman

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

And, that such amendments read:

1. Title, line 6.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN APPLICABILITY DATE"

2. Page 2, line 10.

Strike: "financial exigency"

Insert: "economic conditions of the district"

3. Page 4.

Following: line 17

Insert: "NEW SECTION. Section 5. Applicability. [This act]

does not apply to a person who was employed in an administrative position prior to [the effective date of this act]."

SB 136

HOUSE

VISITORS' REGISTER

EDUCATION & CULTURAL RESOURCES COMMITTEE

BILL NO. SB 136

DATE March 13, 1989

SPONSOR Nathe

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Steve Henry</i>	<i>1145 Toole Ct Billings MT 59105</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>J. Lee Bell</i>	<i>MAGSS</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>John Bell</i>	<i>Helena, MT</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Merrin Carter</i>	<i>Naval M.S.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE 3-13-89 BILL NO. SB 136 NUMBER # 1

NAME	AYE	NAY
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		✓

TALLY

9

11

Shanne McKittrick
Secretary

Ted Schye
Chairman

MOTION: Rep Daily motion to Table
SB 136 failed 9 yes, 11 no

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE 3-13-89 BILL NO. SB 136 NUMBER #2

NAME	AYE	NAY
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	✓	

TALLY 9 11

Sharon McKittick
Secretary

Ted Schye
Chairman

MOTION: Be CONCURRED In AS Amended
failed 9-11, reversed votes and
went out BE NOT CONCURRED In AS
Amended.

daily motion to reverse votes
unanimous voice vote.