MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Chairman, Senator H.W. Hammond, on January 27, 1989, at 1:00 pm in Room 402 of the State Capitol

ROLL CALL

Members Present: Senators H.W. Hammond, Dennis Nathe, Chet Blaylock, Bob Brown, R.J. "Dick" Pinsoneault, William Farrell, John Anderson Jr., and Joe Mazurek

Members Excused: Senator Pat Regan

Members Absent: None

Staff Present: Dave Cogley, Staff Researcher and Julie Harmala, Committee Secretary

HEARING ON SB 162

Presentation and Opening Statement by Sponsor: SENATOR BOB WILLIAMS, Senate District #15, began by pointing out to the committee that the only difference between this bill and the one he presented last session is the number of the bill. He went on to say that this bill seems to be needed more today than two years ago.

To remind the committee Senator Williams stated that Montana requires a minimum of 180 Pupil Instruction days, however there is no maximum of the number of PI days that the state will fund. From his 1987 information, the Senator went on to say that 23 states require fewer than 180 days, Ohio is the only state that requires more than 180 days.

Using information that has come from the educational field, such as the MEA, OPI, MSBA, and the MSAA he went on to say that Montana does require 180 days but there are a number of districts that require more. He said that in 1986 Great Falls chose to use 185 PI days plus their Pupil Instruction Related days. If Great Falls was in North Dakota, they would lose 17 days of

school funding. He referred to a Great Falls Tribune editorial of two years ago that said it was a poor choice to cut back on the school year, when public and private studies have consistently indicated that students graduating in the United States were having a difficult time competing in the technical market. The article recommended a do not pass on this bill but Senator Williams stated that his concern is "the ever increasing costs of education without any control of what we are spending." He was referring to the fact that any district can have as many PI days as they choose to and and the state of Montana receives the bill for this and by law we do have to pay for it.

He said that he felt the biggest problem is that the percentage of the general fund dollars that goes into education continues to increase every year. He said that in 1986, 37% of every dollar went into education and now in 1989, 43% of every dollar goes into education. He feels that "somehow we must get a handle on it. This ever increasing cost is at the expense of many other services and this can not go on for long." His hope is that the committee is smart enough to address this issue before the general public says "no more," then we will have to make drastic cuts with irreparable scars.

Senator Williams pointed out that he was not at the committee hearing to say how many dollars should be put into education, he merely was suggesting that the committee approve SB 162 so there could be equality for every school district in the state of Montana.

He then asked Senator Hammond for the right to close his introduction.

List of Testifying Proponents and What Group they Represent:

HOLLY KALECZYC, The Office of Public Instruction

TESTIMONY: HOLLY KALECZYC, representing OPI, stated that Superintendent Keenan supports this legislation because to do otherwise would fly in the face of the Loble Decision. The business now is how to achieve the goals of the Loble Decision, how to achieve equity in this issue, and how to achieve equalizing the money that is distributed.

List of Testifying Opponents and What Group They Represent:

BRUCE MOERER, The Montana School Boards Association DAVE BISHOP, School Administrators of Montana BEN LAMB, Superintendent of Business for the Great Falls Schools

LORAN FRAZIER, Assistant Superintendent of Instruction in Great Falls, Montana GREG DANELZ, Montana Association of County School Superintendents

T. C. MATTOCKS, Superintendent of the Cut Bank, Montana Schools

TERRY MINOW, The Montana Federation of Teachers PHIL CAMPBELL, The Montana Education Association

Testimony: BRUCE MOERER of the MSBA stated that they are opposed to SB 162, because the Association believes that education should be maximized by increasing funding and increasing days rather than cut days for some schools. Equalization arguments he understood but he stated that he did not understand how equalizing could be accomplished "piecemealing" like this. He used Great Falls, Montana as an example, explaining that they have 185 PI days and using Governor Schwinden's Advisory Council's proposal this school district could reach the same level of spending that they have currently with a savings to the local taxpayers of 101.54 mils and they would be at the same level of spending. The foundation program would be increased under this proposal to about 216%.

This bill takes one item of the school budget, the PI days, and rolls it back in some schools and cuts Great Falls foundation program by 21/2%. Mr. Moerer pointed out that when the whole program is equalized the way it should be, the Great Falls foundation program would be increased by 216% and they would have the ability to maintain their current level of funding with a savings to the taxpayer under a truly equalized program. He feels that by trying to equalize in a piecemeal fashion, disproportionate results are gotten and if the entire system is equalized there are ofcourse winners and losers, but it works out in a much more fair manner.

He went on to suggest that if the committee did support SB 162, the use of a five year phase in with a lose of funding one day a year should be allowed so the costs could be absorbed. Under Initiative 105, he reminded the committee, this would this would cause a direct loss of funding without the ability to cut costs. The tenure law does say that teachers salaries can not be cut, so this give teachers five less days of work at the same salaries.

Mr. Moerer concluded his testimony by stating that he wanted to register the MSBA as being in strong opposition to SB 162.

Dave Bishop, representing SAM, requested that his group be put on record as being opposed to SB 162. He wanted to point out that there are 75 school districts in Montana that exceed the 180 PI day requirement.

BEN LAMB stood in opposition to SB 162 because the cost to the Great Falls schools would be in the excess of \$106,000 for each day that would be lost from their 185 PI days that they currently have. The nation being at risk, he went on to stress, points out that the school year should be extended over 200 days. The extra funds that are received from the state are approximately 2000 dollars per student and are matched by 1000 dollars from the districts so this is not just a wind fall amount of money that comes to the Great Falls schools and 1/3 of the increased costs of the extra five days is paid by the local taxpayer. He also pointed out the with I 105, funds cannot be increased by the local taxpayers, so this means that for each day lost, \$106,000 worth of cuts would have to be found within the school budget.

He stated that the Great Falls schools do oppose SB 162.

LORAN FRAZIER asked the committee to seriously consider tabling this bill, because the legislative body is going to have to address equalization of the schools and this bill is just a piecemeal attempt at equalization when looking at the goal of total equalization.

As educators, he went on to say, we must look at the Loble Decision and Project Excellence and wonder where these fall into the current "budget amounts." He reminded the committee that there can only be a maximum of 7 PIR days and Great Falls for the past five years has operated on the same budget. He recommended that the whole equalization process be addressed rather than just

parts of it.

GREG DANELZ of Ravalli county wanted to be registered as being opposed to SB 162. He said that there were seven school districts in Ravalli County that utilize more than the 180 PI days.

CHRIS MATTOCKS also spoke in opposition to SB 162 by pointing out his disappointment in hearing that OPI assumes this is a financial bill with few educational implications. He feels that "it is an educational bill with a few minor financial implications." Also he feels that this bill is an attempt to subvert the collective bargaining process which allows local teachers and local school boards to agree on a longer school year "for the sake of kids." He went on to say that he feels its an attempt to "dumb down" Montana students at the time when all evidence indicates that our students are not very well prepared when looking at "the world wide view." Also he said our students should be gearing up for the very highly technological society that they will be in, in the year 2000 and beyond.

TERRY MINOW stated that the MFT rises in opposition of SB 162 because they feel that equalization should not be addressed in this fashion. This bill takes the approach of equalizing the lowest common denominator rather than trying to increase the quality of education for Montana students. She pointed out that the schools no longer have the option of going to the local property taxpayers to make up the difference, instead programs will be cut and teachers will be laid off.

PHIL CAMPBELL of the MEA stated that the association is opposed to this bill as it is written.

Exhibit #1 - Amendments that were suggested for a phase-in if SB 162 were to pass.

Mr. Campbell explained that the amendments he presented would allow the school district to absorb the financial impact.

He then commented on Mr. Moerer's explanation of teachers getting paid for five days that they would not be teaching. He said that if teachers were getting paid that much more than other people working 180 days, then this would be a concern.

Questions From Committee Members: Senator Brown asked Mr.

Bishop, "If there are 75 school districts that are offering more than 180 days, then how many students are affected or what is the percentage of students affected?" Mr. Bishop replied that he could only give a "ball park figure" and that is that there are probably 70% of the students in Montana that are affected.

Senator Nathe commented that the committee was hearing that this is not a money issue but rather an educational issue, therefore in the 75 school districts that offer more than 180 PI days, "are the SAT and the ACT scores substantially higher than the other districts?" No one had these statistics to offer to the committee. Mattock stated that excellence on the part of an individual student can occur regardless of the length of the school year. Senator Nathe wondered if we are spending the money, are we getting excellence back in the 70% of students going longer than 180 days. Mr. Lamb stated that we do rank 6th in the nation in the number of students that start high school and complete high school. If this is tied in with economic development this could be a very large factor. He said that there are some good things happening in Montana's educational system. He feels that now is not the time to reduce education because by looking at the national test scores, we can assume that we are receiving positive results from 70% of our students coming from districts that go to school longer than 180 days. Senator Nathe replied that the only real way we will know if there are positive results is to demonstrate to the committee that these 70% are exceeding the other The information that he has is that the remedial courses taught at the universities do not necessarily back this information up because students from smaller areas are not in these remedial courses.

Senator Pinsoneault said it was ludicrous to suggest that we are going to compete with the Japanese's educational system by adding five days to our school year.

Senator Farrell wondered how many schools use the extra days to fund special education classes and

summer time programs. Mrs. Kaleczyc said she would get this information for the committee.

Senator Blaylock asked Senator Williams if he would be in agreement to making all the school districts even in the number of PI day, even if all the district went to 185 PI day. Senator Williams responded that he would be in agreement of that. Senator Blaylock went on to say that, "The way it is now it is up to the schools if they want to use extra PI days, so if its up to the schools, why does the OPI feel that this flies in the face of Loble, if they can do it if they want?" Mrs. Kaleczyc replied, "Because Superintendent Keenan has concern about the piecemeal approach. She thinks that it is important that this committee have movements that clearly show sensitivity to equal opportunity in She would be happy if 200 PI days education. could be funded."

Senator Nathe offered the committee a general statement in response to the United States being compared to Japan and European countries. "They fund education a lot differently. We're sticking in 54 million dollars into special education in Montana and another 12 million dollars just this morning and we give gifted and talented \$200,000. If we were in Japan this would be reversed and the special education people would be left to sit in the wind and I do not care for those comparisons when the Japanese and the German teenage suicide rate is extremely high. The educational emphasis is entirely different here, we are spending a lot of resources to help people and they only concentrate on how to get the most bang for the buck."

Closing by Sponsor: Senator Williams closed by giving the fiscal notice of this bill as showing a savings of 1.36 million dollars for the state of Montana. He disagreed with the 70% figure of schools going longer that 180 days. He added that he would be receptive to the amendments brought in by the MEA. He also admitted that may be the bill was a piecemeal attempt but when we are faced with \$106,000 a day savings and Great Falls could raise the number of PI days to has many as 196 if they chose, we will never get a handle on what we are spending on education. He closed with the fact that North Dakota has 17 less PI days than Great Falls, and in fifteen years we have never caught up to them in the number of high school students who graduate.

Montana graduates 83% of its high school students and North Dakota graduates 94% of their high school students. The general feeling he said is that everyone was wondering where the money is going to come from for education.

DISPOSITION OF SB 127

Discussion: Senator Mazurek asked Dave Cogley to go over the amendments to SB 127. Mr. Cogley pointed out that with the amendment this legislation would only apply if the contract provided for binding arbitration, and the teacher or the school employee would still have the right to be able to go through the grievance procedure or through the statutory appeals procedure.

Mr. Cogley went on to say that it was conceivable that there could be some issues that would not be subject to binding arbitration provided in the contract that might arise that could be dealt with in the statutory procedure. Bruce Moerer responded by saying, "The concern is that when an issue is brought to the county superintendent, he would not consider some issues arising under the collective bargaining agreement. They will only look at the law. But now the Supreme Court has said the county superintendent has to admit into evidence the collective bargaining agreement. is his understanding that it is not that a teacher can not get in every thing they want into the arbitration, the fear was that when going to the county superintendent, the superintendent would not admit the collective bargaining agreement.

Exhibit #2 - A case presented to the committee by Bruce Moerer explaining the above situation.

Amendments and Votes: Senator Mazurek moved to have all the amendments passed, Senator Farrell called for the question and the committee unanimously consented to all the amendments.

Exhibit #3 - a list of approved amendments to SB 127.

Recommendation and Vote: A roll call vote was taken with all members voting in favor of SB 127 except for Senators Regan, Blaylock, Brown and Mazurek voting against moving SB 127.

Senator Hammond announced that SB 127 passed the committee and now the bill will go to the Senate floor as amended.

DISPOSITION OF SB 136

Discussion:

Exhibit #4 - A list of approved amendments to SB 136.

Senator Hammond agreed that a program may be changed in order to demote the principal, but by the same token he added, they might want to add a program that will improve the whole situation. He went on to say that the committee should not not pass legislation on the suspicion of what might happen. He said that often times because we are so suspicious we do not give the administration what it takes to increase the ability of schools to meet the local needs.

Senator Mazurek stated that in 1985 he was on a study commission that proposed this bill and it failed miserably. With the proposed amendments he felt that the bill may get through. By accepting all the amendments there could be a realistic chance to do something about a situation that caused unfairness.

Senator Hammond stated that he was concerned this bill would take out the possibility of someone being promoted to a principal position and they should have the chance to try this position out. Senator Mazurek felt that also in some areas schools will avoid tenure by bringing in new teachers every two years and his fear was that this would happen to administrators.

Senator Pinsoneault told of a situation where an exceptional counselor wanted to try the principalship but failed and went back to his counselor's position at an administrative salary.

Senator Mazurek said that he wanted to avoid a teacher being moved up and this not being used as a way of getting them out of teaching and then not having the opportunity to go back to teaching. They must be allowed to go back to teaching if trying the administrative position does not work out. He went on to say that a teacher at the

conclusion of the temporary assignment must have the opportunity to return to the classroom.

Mr. Cogley assured him that we are dealing only with a tenured teacher and tenure is not lost when going into an administrative position. The teacher's status is not being affected.

Amendments and Votes: Senator Brown moved that amendments 3 and 4 be moved, Senator Mazurek called for the question. All were in favor of amendment 3 and 4.

Senator Brown moved that amendment 5 be passed, Senator Pinsoneault called for the question. All were in favor of amendment 5.

Senator Mazurek moved to pass amendments 1,2,6,7, and 8 which would remove Section 3, Senator Pinsoneault called for the question. Senator Hammond called for a roll call vote. The motion failed 5 to 4.

Senator Brown moved to strike lines 11 through 13 in their entirety. The motion was carried unanimously.

Recommendation and Vote: Senator Nathe moved that SB 136 be passed as amended, he called for the question. Senator Regan and Senator Blaylock voted against the motion the remainder voted in favor of the motion.

SB 136 was a do pass as amended.

DISPOSITION OF HB 14

<u>Discussion:</u> Senator Hammond commented that HB 14 is a reasonable request because some provision must be made as long as the Vo-Tech Centers in Great Falls are dealing with higher education, this is the place for them with the Board of Regents.

Recommendation and Vote: Senator Farrell motioned that HB
14 do pass. All were in favor except Senator Mazurek,
who voted nay.

DISPOSITION OF HB 75

Discussion: Senator Hammond reminded the committee that HB 75 dealt with the handling of Vo-Tech fees. This bill

is what the Vo-Tech Centers want.

Amendments and Votes: Senator Mazurek moved that the amendment changing the "immediate" date to the "effective" date be July 1, 1989.

Exhibit #5 - A list of amendments to HB 75.

Senator Mazurek moved that the bill be concurred in as amended. The motion was carried unanimously.

Senator Hammond assigned Senator Regan to carry HB 75 to the house. He also assigned Senator Jacobson to carry HB 14 to the house.

ADJOURNMENT

Adjournment At: 2:40 pm

Senator H. W. Hammond, Chairman

HH/jh

Senmin.127

ROLL CALL

EDUCATION	COMMITTEE

5#th LEGISLATIVE SESSION -- 1989

Date 1-27-89

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NAME	PRESENT	ABSENT	EXCUSED
	V		
Chairman Swede Hammond			
Vice Chairman Dennis Nathe			
Senator Chet Blaylock		V	
Senator Bob Brown	V		
Senator Dick Pinsoneault	.V		
Senator William Farrell			
Senator Pat Regan		÷	•
Senator John Anderson Jr.	V		
Senator Joe Mazurek	-	V	
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Each day attach to minutes.

SENATE STANDING CONNITTEE REPORT

January 30, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration SB 127 (first reading copy -- white), respectfully report that SB 127 be amended and as so amended do pass:

1. Title, line 5 AND 6. Following: "IF A" Strike: "SCHOOL EMPLOYEE FILES A"

2. Title, line 6.
Following: "GRIEVANCE"
Insert: "CONCERNING THE CONTROVERSY HAS BEEN FILED"

3. Title, line 7.
Following: "AGREEMENT"
Insert: "THAT PROVIDES FOR BINDING ARBITRATION"

4. Page 2, line 25 through page 3, line 1. Following: "when"
Strike: "an employee who is a party to the controversy has filed"

5. Page 3, line 1. Following: "complaint" Insert: "concerning the controversy has been filed"

6. Page 3, line 2.
Following: "agreement"
Insert: "that provides for final and binding arbitration of the dispute"

AND AS AMENDED DO PASS

Signed:

H. W. Hammond, Chairman

1130 40 M

SENATE STANDING COMMITTEE REPORT

January 30, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration SB 136 (first reading copy -- white), respectfully report that SB 136 be amended and as so amended do pass:

1. Page 2, line 9. Following: "enrollment" Strike: "," Insert: "or"

2. Page 2, line 10.
Following: "exigency"
Strike: ", or program change"

3. Page 3, line 23.
Strike: "comparable"
Following: "position"
Insert: "for which he is endorsed"

4. Page 4, line 1. Strike: "(1)"

5. Page 4, lines 11 through 13. Strike: subsection (2) in its entirety

AND AS AMENDED DO FASS

Signed: H. W. Hammond, Chairman

SENATE STANDING COMMITTEE REPORT

January 30, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 14 (third reading copy -- blue), respectfully report that HB 14 be concurred in.

Sponsor: Cobb (Jacobsen)

BE CONCURRED IN

Signed. H. W. Hammond, Chairman

1130/89 113:40 m.

SENATE STANDING CONNITTEE REPORT

January 30, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 75 (third reading copy -- blue), respectfully report that HB 75 be amended and as so amended be concurred in:

Sponsor: Hercer (Regan)

1. Title, line 9. Strike: "IMMEDIATE"

2. Page 2, line 2. Following: "EFFECTIVE" Strike: "ON PASSAGE AND APPROVAL" Insert: "JULY 1, 1989"

AND AS AMENDED DE CONCURRED IN

Signed H. W. Hammond, Chairman

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GANGE LOUCATION

SHIBIT NO. 1

DATE 1-27 -89

Amendment to SB162

Page 1, line 8, following "MCA;":

Add:

PROVIDING A TRANSITION PERIOD FOR SCHOOL DISTRICTS WITH MORE THAN 180 PUPIL-INSTRUCTION DAYS;

Page 4, line 9:

Add:

New Section. Section 2. Transition Feriod -Applicability. (1) The calculation of the ANB in 20-9-311
applies to school districts with 180 pupil-instruction days
for the fiscal year ending June 30, 1989.

(2) The calculation of the ANB in 20-9-311 is applicable to a school district with more than 180 pupil-instruction days for the school fiscal year ending June 30, 1989, unless it adds 1 day to the divisor used in calculating the ANB in the current fiscal year and each ensuing school fiscal year until the divisor equals the number of pupil-instruction days used by the school district in the school fiscal year ending June 30, 1989.

New Section. Section 3. Effective date. This act is effictive on-passage-and-approval July 1, 1989.

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STATE REPORTER

OF

SEN TE EDUCATION

EXHIBIT NO. # 2

DATE /-27-89 4

BILL NO. SB /27

EDUCATION LAW

VOLUME 7

LORINDA BECK,

Petitioner and Appellant,

No. 88-22

Decided: Aug. 22, 1988

v.

BOARD OF TRUSTEES, CASCADE COUNTY SCHOOL DISTRICT NO. 1 and HIGH SCHOOL DISTRICT A, and ED ARGENBRIGHT, SUPER-INTENDENT OF PUBLIC INSTRUCTION,

Respondents.

Appeal from the First Judicial District Court, Lewis & Clark County, Honorable Henry Loble, Judge

For Appellant: Emilie Loring, Big Fork

For Respondent: Waite, Schuster & Larson, Great Falls

Rick Bartos, Office of Public Instruction, Helena

For Amicus Curiae: Bruce W. Moerer, Mt. School Boards, Helena

Ms. Loring argued the case orally for appellant; Mr. Leslie S. Waite for Respondent.

Opinion by Justice McDonough; Chief Justice Turnage and Justices Harrison, Sheehy, Weber, Hunt and Gulbrandson concur.

Remanded.

TEACHERS--TENURE, Appeal by teacher in dispute over the renewal of teaching contract and tenure rights. The Supreme Court held: (1) Given the policy of providing tenure, a school district may contract with a teacher's union to allow retention of tenure without violating the statute, and (2) The proper remedy for the County Superintendent's exclusion of the collective bargaining agreement (CBA) is to remand to the County Superintendent to consider the effect of the CBA on tenure rights.

SERIATE EDUCATION EXHIBIT NO... BILL NO. SB

Amendments to Senate Bill No. 127 Introduced Copy

Requested by School Boards Association For the Senate Committee on Education

Prepared by Dave Cogley January 18, 1989

1. Title, line 5 AND 6.

Following: "IF A"

Strike: "SCHOOL EMPLOYEE FILES A"

2. Title, line 6.

Following: "GRIEVANCE"

Insert: "CONCERNING THE CONTROVERSY HAS BEEN FILED"

3. Title, line 7.

Following: "AGREEMENT"

Insert: "THAT PROVIDES FOR BINDING ARBITRATION"

4. Page 2, line 25 through page 3, line 1.

Following: "when"
Strike: "an employee who is a party to the controversy has filed"

5. Page 3, line 1.
Following: "complaint"

Insert: "concerning the controversy has been filed"

6. Page 3, line 2.
Following: "agreement"

Insert: "that provides for final and binding arbitration of the dispute"

Amendments to Senate Bill No. 136 Introduced Copy

For the Senate Committee on Education

Prepared by Dave Cogley January 25, 1989

1. Page 2, line 9.
Following: "enrollment"
Strike: ","
Insert: "or"

2. Page 2, line 10.
Following: "exigency"
Strike: ", or program change"

3. Page 3, line 23.
Strike: "comparable"
Following: "position"
Insert: "for which he is endorsed"

4. Page 4, line 1.
Strike: "(1)"

5. Page 4. Strike: lines 11 through 13 in their entirety

RONATE EDUCATION	
EXHIBIT NO. 5	
DATE 1-27-89	1
BILL NO. HB 75	4

Amendments to House Bill No. 75 Third Reading Copy

For the Senate Committee on Education

Prepared by Dave Cogley January 27, 1989

1. Title, line 9. Strike: "IMMEDIATE"

2. Page 2, line 2. Following: "EFFECTIVE"
Strike: "ON PASSAGE AND APPROVAL"
Insert: "JULY 1, 1989"

COMMITTEE ON Education

VISITORS' REGISTER								
NAME	REPRESENTING	BILL #	Check Support	One				
Fail Mily	VAM	162		/				
John Kaleeryc	OPI	162	\checkmark					
John Solf	MACSS	162						
Shew Danes	MACSS	162						
Earl Brug	sur falls believe	162						
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Bruce W. Moerer	<u>53A</u>			<u></u>				
T-C MATTOCKS	Cur Bank Schools	162		V				
John Malee	M, F, T.	16-2						
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