MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator H. W. Hammond, on February 9, 1989, at 11:30 am 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, Pat Regan, John Anderson Jr., and Joe Mazurek

Members Excused: None

Members Absent: None

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

Announcements/Discussion:

Senator Hammond called the special meeting to order.

Senator Blaylock reminded the committee that the administrators from throughout the state were present at the meeting to address the issues arising from the Loble Decision and SB 203.

Robert Richards, Superintendent of Schools in Miles City, Montana, began by explaining each of the points of SB 203 as they compared to SB 168 and HB 575 they were summarized in A Summary Of School Funding Equalization Proposals. (See Exhibit #1).

Mr. Richards started with issue #2 which deals with the retirement fund. He said there are two main concerns (1) the retirement fund as it is right now is fully funded separate from the general fund. This is one thing he said that they felt was important to protect, that all schools have the amount of money that is actually required for their retirement costs and the problem with putting it into the general fund, even if it is equalized 100%, the situation may occur because of the distribution, some schools would not be fully funded. The two mechanisms that he thinks would work to distribute the money on an ANB basis, if this is done the smaller schools will generally lose and they would not have enough money to fund the actual retirement costs. If it is done on the number of teachers it would probably be reversed because the smaller schools may have more retirement fund that they actually need and the larger schools may end up with not enough money. There must be some basis to figure out how much money is going to be put into the retirement fund. Since these are mandated costs any funds that are not available for the retirement fund, has to come out of the general fund budgets.

The mechanism that they figured out for SB 203 is to leave the retirement as a separate fund. It could be funded at 100% percent, but they suggested 90%, which would accomplish (1) an amount would be left for the counties to pick up as they usually do, this would be a very small amount, only 10%. At least the mechanism would be there to budget the amount that is actually needed. (2) When this was being devised they looked realistically at what the state was spending and tried to keep the school in line. Any time there is a fund that is going to be funded at 100%, the temptation is to take as much money out of it as can be done. An administrator may look at the fund and fund what ever they can out of it. So when an administrator is making his retirement fund up, he must make it for exactly what the amount is that is needed for retirement. A cushion can not be put in. If it was funded 100% they wondered what would happen to the money that was not needed, would the money that was actually spent have to be accounted for and send the rest back to the state, etc. 90% would eliminate these types of problems. (3) This would give school districts an incentive to hold down retirement costs. Between districts there is a wide range of salary schedules. If the state is funding 100% it is again one of those areas that administrators do not have to worry about as far as accounting for the money quite so closely. If some goes back to the local control, there may be some incentive for school districts to keep the cost down.

Senator Blaylock asked if 10% would be enough at the local level to keep the districts in line.

Mr. Richards answered that it was thought that this would help. Where the 10% actually came from was trying to consistent with the Loble Decision, 85% was the target figure to be equalized for everything, we are looking at 85% plus a 5% inflationary factor for the next years budget. With less than 85% there might not be a need for the under funded requirement.

Senator Farrell asked Mr. Richards why the teachers retirement is not being funded 100% and a state wide average made on a state wide mill levy. Can the administrators estimate and keep this in their general fund, making a general fund item. Why must this be a separate mill levy.

Mr. Richards answered, "So it is guaranteed that there is 100%."

Senator Farrell pointed out that if it is in the general fund it is guaranteed.

Mr. Richards asked if the levy was going to be set after the budgets were made up for the state-wide levy and how is the state going to know the total retirement amount for the state. Each individual school district makes up their budget, the last thing done is the retirement budget and the comprehensive insurance, because we can get the actual figures and this information is not available until the budgets are adopted on July 1. After the budget is turned in it is a mandated fund, then the county comes back and levys the amount of money that is actually needed for that budget. The state would have to estimate this and there would have be a mechanism to do this.

Senator Farrell stated that he has no problem with local control but this is what the court says we have to equalize and we are going to pay a certain percentage of the retirement system. If salaries are raised or lowered therefore raising or lowering retirement fees must be a part of the general fund.

Mr. Richards answered that he is still concerned with what mechanism would be used to get the money back to the districts.

Senator Farrell said that as far as the state is concerned, it would equalize retirement in all school districts. But if a retirement benefit is negotiated that is higher than what the state wide average is, then this would be part of the district's general fund.

Mr. Richards said this is when he gets concerned because there are going to be some schools that are winners and some schools that are losers. The schools that are the losers will be real loser in this situation because they are not going to have the actual dollars for a retirement fund. Those with average teachers salaries of $29,000 are not going to have the money to pay their retirement costs. If it is done by ANB, the little school will be favored, if it is done by the number of teachers the larger schools are going to hurt. He said that he would rather see that the actual cost is figured out and make sure it is fully funded.

Senator Regan asked if the retirement cost was left in a separate fund would it be expected to maintain a reserve and at what percentage.

Mr. Richards answered that a reserve would be wise, but the percentage does not have to be high.

Senator Regan wondered what was a low percentage.

Mr. Richards replied that it does not have to be 35% as in current statutes. He said that he had not researched this out.

The delivery schedule of the money from the state is going to determine the level of need for cash reserve. If 1/12 is gotten every month, then there will not be a need for a cash reserve at all in the retirement fund. But if there are four payments then there is going to be a need for the districts to finance themselves through those first three or four months. This is what cash reserve is all about, is cash flow. If July 1 is the starting date and there is no money and there is money needed to pay a retirement fund it is going to have to come from somewhere, either from a cash reserve or the state makes the payment to the district so those amounts can be paid. 10% would work, depending on when the scheduled dollars come. 20% would work depending on when the schedules are paid. We do not know what the mechanism is as far as payments are concerned.

A superintendent from the audience commented on why a separate fund for retirement. He said if an average goes into the general fund those schools who do not receive enough dollars will have to take money out of an instruction area to make up the difference. If it's a separate fund it would not impact an instruction area but if it is in the general fund it can impact the instruction area and other areas as well. Any thing that is paid through the general fund would be impacted if it is in the general fund. This is a dominos effect all the way throughout and if the retirement fund is on the outside it is not impacted. Also one of the precepts for developing this plan is that the best and may be the most accurate thing to deal with is the expenditures of schools districts of the previous year. This is why 90% was determined because that is what is being paid, with a mechanism that is in place already to make up the difference at a countywide equalized dollar.

Senator Hammond commented that we must equalize as much as possible with the new Supreme Court decision. And it is hoped that schools of similar sizes would get to similar expenditures.

It was commented that with salary schedules as they are this will never happen. The Loble Decision does not say that 100% has to go into retirement. It does not have to be equalized 100%.

Senator Farrell asked if we go on actual expenditures and then cap different sized schools, does this not actually bring them into line with the retirement funds.

Mr. Richards answered that when all this equalization is done in five years from now we are going to be looking at salary schedules that are very similar and similar expenses. When the general fund is capped, most of the general fund is in salaries so in five years we will be coming together, our salary items are going to be coming together. Then the retirement costs will be coming together because they are based on salaries.

A comment from the audience, "salary schedules may be coming closer but with longevity, payment under the schedule may not. The longer a person is in a district the more money they are going to make."

Salaries will always be different because there are some communities where teachers come and go and then there are other ones where teachers come and they stay. Their retirement requirement is higher, even if there is a statewide salary schedule there still will be a difference due to longevity salary schedules.

Mr. Richards went on to discuss comprehensive insurance and why it is included in the general fund and retirement is not. He said there were persuasive arguments that this is a cost-saving measure. Districts are trying to economize right now, for instance at Miles City there is a $2000 deductible on comprehensive insurance. If it is put into the general fund and it is funded at 100% there is no longer any incentive for the superintendent to try to save the costs, in fact it goes just the opposite, because the superintendent then may put insurance and have no deductible, stop worrying about bidding it out, therefore driving costs of comprehensive insurance up. If it is in the general fund, any money that is not there for comprehensive insurance has to come out of other areas. This will be a local choice, therefore cost will be held down because it will have to be paid by each district.

Senator Hammond asked if health insurance was included and he was told that comprehensive insurance does not include health insurance.

Senator Farrell asked if this was put in the general fund would it be wise to have a state plan that all the schools could join. He thought a group insurance plan would be the answer to the local dilemma.

Mr. Richards said that this had been tried by administrator with health insurance and there were plans by the school boards to use part of the coal trust money to set up self funded insurance. There will be problems when insurance agents come in selling their policies.

Senator Farrell asked why not include workers compensation if not health insurance under this comprehensive insurance.

Mr. Richards replied that legal liability and workmens'compensation payments is included.

Mr. Richards said that insurance agents are protective of their own industry because they want those local policies. There would also be problems district to district, about the amount of coverage. The legislative body could say "this is the package that all school will have."

Senator Regan asked if comprehensive insurance is only about 1.3% of the school budget, has there been any discussion that this would be better left outside this whole program and let the individual districts deal with it as they always have.

Mr. Richards replied that the insurance had to be equalized. The state could deal with it as they have retirement and equalize it at 90%. It was thought that if the state equalized it at 100%, then put it outside the general fund expenditure, the cost would be a factor, so there was no way to come up with a mechanism to keep the cost down and still equalize unless it was put back into the general fund.

From the audience a superintendent said this would just be another property tax levied directly by trustees that caused some of the inequities causing the law suit. Consequently it was taken into the general fund and funded through that on an equalized basis.

Senator Regan stated that transportation and capitol construction was not being addressed, and she felt that insurance was tied very closely to capitol construction.

Mr. Richards said there were two areas being looked at here, one being buildings, the other workmens' comp. One relates to buildings the other to people.

Mr. Richards went on to #4 (<u>See Exhibit #1</u>) stating that once schools are funded in equalized manner, tuition does not become a problem. There are two areas that must be looked at (1) the out of state student, and there needs to be a mechanism to put tuition money in (2) since there is no tuition, the receiving districts must be protected on whether or not they have to accept students. With special education students that are extremely expensive to educate, there may need to be the choice for the districts not to accept them or to be assurance that their costs will be paid.

He said there are reservations about no tuition for out-of-state students and special education placements.

Mr. Richards went on to #5 (See Exhibit #1) by explaining how the foundation schedules and SB 203 were adjusted. The general fund expenditures were taken for all the schools across the state for a given year and were divided by the amount of money put in by the state through the foundation program that year. This gave them the factor. The figures that are seen in SB 203 are based on fiscal year 1987. This is how the 1.6 and 1.65 factors were developed. Each figure on the foundation schedule was multiplied by that factor. Once this is in place it will be adjusted annually by using the cost of living increase. The problem with this is that if this is put into place for FY 1990 what we are really doing is freezing next years funding at 1987 levels because we are not even using what was actually spent in FY 88. Plus there is no consideration for any new money that the legislature might want to add to the foundation program. What is going to happen, the school district will be coming up short. It can probably be adjusted by taking the general fund expenditures plus what ever new money is being considered then dividing by the total amount that the state put in for the previous year. The problem gets worse if the legislature happens to adopt a plan and then phases it in two years later, then the FY 92 funding patterns would be based on FY 87 expenditures.

Mr. Richards went on to #8 (See Exhibit #1) and explained that this referred to the cap that was similar to the cap that is suggested by the Governor's Council Bill which is a cap of 117% of those figures. This is a phased in cap after 5 years. There would be no cap the first five years.

Senator Hammond asked if there was a cap on the voted levies.

Dave Cogley addressed the concern that the cost would get out of line over the five year phase in period. He explained that this would not happen because the foundation program sets the level of funding for the general fund budget without a vote. If schools choose to increase their voted portions they know that at the end of 5 years they must be within the 117% of the foundation program, which does not change. School districts can not change it because it is set by the legislature.

The Superintendent from Colstrip explained that their school district is going to have to come down when it comes to capping. There would be no way that they would inflate their budget so that suddenly in five years, 4 million would have to be cut instead of 2 million.

Mr. Richard explained that the superintendents tried to protect the wealthier school districts so they did not have to immediately lower their budgets and effect the programs that are currently in place. By putting caps on this will affect schools like Colstrip.

Mr. Richards went on to #12 (See Exhibit #1) explaining that there is to be a 20% limit on reserve. This could be lower because there will be more money available, however there still needs to be a cash flow. This bill does ask that the money be distributed in 12 equal payments with the first payment being front ended with 20% of the total amount. For protection of some individual districts an allowance is made that if they do not get any money from the state then they are allowed to keep the current 35% cash reserve to carry them over from July 1 to November 30.

Senator Blaylock asked if payments are given monthly.

It was answered by a superintendent that it depends on the distribution mechanism. Under the system that is in effect now, county equalization money does not come until tax time. If the tax base is high enough to fund all the requirements for the foundation program, those districts are without money until November or December. Only the districts that receive state equalization money will receive a monthly distribution.

Senator Hammond asked, "Can other funds be gotten in to take care of unexpected costs?"

Mr. Richards replied that these are the kinds of things that are going to require cash reserves.

The reserve is just operating capitol. This is not money set aside, all it is money to spend until there are revenues. Reserves can not be spent over and above the general fund budget.

Senator Mazurek asked if the 20% applies to the general fund budget. He wondered about other funds.

Mr. Richard replied that as funds are equalized then reserves can be lowered. They need to be protected until they are equalized. The bill addresses the general fund only in the 20%. Other funds can probably be handled this same way as soon as equalization has taken place.

He said once its decided how the funds are going to be distributed, then it is decided what level of cash available there needs to be.

Senator Farrell wondered how many schools actually spend their reserves (operational money) down to zero.

A superintendent from the audience answered, "Quite a few." For example Sidney has a high taxable evaluation and coming into November of this school year in our high school district, they were within $50,000 of exhausting their general fund budget. Sidney is at a 16% reserve level. Not many with a 35% reserve spend down that far, but it depends on the delivery system, some pay salaries all summer and would need the 35% level.

Jess long stated that if five funds are being looked at there would be a lot of reserve problems in other areas. When looking down through the budgeted funds that are listed there, there are less funds. While studying capitol outlay, transportation, etc. A lot of the reserve funds are eliminated because of putting things into the general fund and looking at a 20% reserve for the general fund.

Mr. Richards went on to #13 (<u>See Exhibit #1</u>) and stated that they would like the schedules to be adjusted to reflect the latest data available which is FY 88 data plus what ever new money the legislature may provide, divided by the total amount that was put in by the state's foundation program in 1989. This would give the factor that times each of the amounts in the current schedule would give us the new schedule.

Senator Mazurek asked Mr. Richards why administrators have gotten away from the 180 PI days concept (referring to #14 on Exhibit #1) if the whole idea is to equalize.

Mr. Richard said that in SB 203 there is no change. Part of the MASA and the school districts policy is to go more than 180 PI days if the district desires to do so so, because this means more instruction and this is educationally sound. They would like the opportunity to continue operating this way.

Jess Long stated that the problem with the passing of SB 162 is that there are 74 schools out there that teach more than 180 PI days and some of these are looking at such things as master contracts in which there is no way to bring that particular cost item down and back into line with 180 PI days. There is a problem for them in which they may not have local funding available, may be some of these schools are already under funded and down, this will create further under funding for them even though there is an agreement that we are going toward equalization. We need to go to a certain number of PI days for all school districts not just a few. Educationally this is sound to go more days and if we are going to equalize it should be equalized upward to where some school district are at 185 PI days. Some school districts perceive this as furthering their problem of being under funded.

Senator Mazurek said that we have a lot of districts that are going to go through a lot of changes because of equalization and "equalization ought to be equalization." It is fine for Great Falls to say they have to equalize and take money from others but turn around and say they are not going to give anything by coming down to 180 days.

Mr. Richards replied that he represents a district that goes 182 PI day and philosophically he said he believes more days of education is good and it should be the same for all schools. He believes that all schools should go 182 days or 184 days.

Senator Hammond stated that in order for the state to get a formula so they know what they are going to have to pay, there is going to have to be a formula that works for everybody.

Don Waldron commented that his concern after listening to Mr. Richards speak to these issues is that if 100% of retirement is paid, then the reports will have to sent in to OPI by each district and they will have to write the checks out of the state treasury. Then we will know it will be 100%. The reason for the 90% is to give this protection and secondly when talking about 90% remember that it is really about 85% and 15% is going to be picked up locally, some years more, some years less. This is a step in the right direction to leave it where there is that flexibility to pick up the changes that occur from year to year. If you prefer 100% we can give you some language and the tapes, quarterly reports, and monthly reports. You write the checks over to the other agency (teacher's retirement system, unemployment insurance, etc.) then we are protected to.

Senator Blaylock asked why should not ANB be changed to the actual count.

Mr. Richards asked, "Then do we go to the actual count the first day of the month?" Everyone in the field is use to ANB. If we would be go actual count he thinks that we would be building in some false things. Would we say then that we take the count of just the ones belonging on that day or the ones that are actually in attendance that day. He stated that he really did not see a problem with the ANB the way it is now, it works well and everyone understands this system.

Tom Dolan, from MEA, commented that why we stay with ANB is that everyone understands this and there are a lot of districts that are going to be hurt if we would go to the actual attendance on a given day. It is difficult to anticipate the impact, because we are looking at poor districts and it is step saving when funding, to have ANB funding. This also provides PIR funding for the schools and if we move into a ADA or an ADM system PIR funding would be undermined.

Mr. Richards concluded by saying that the crucial issue is the date and he hoped that some movement is made to clarify exactly what effective July 1 in the court decision means. It is critical because it is going to be impossible to have anything is place and operating by July 1, 1989. He encouraged the committee to do what ever necessary to get this date clarified. Also if any information is needed to follow up on this discussion feel free to call any of the superintendents that are here today.

Senator Blaylock asked what kind of funding for the new system is preferred and Mr. Richards replied that the feeling is a mix. This problem came about because we were totally dependent on property taxes. This problem may not be eliminated by re-shifting property taxes burdens, therefore there is a need for new money. We will support any phase in or what ever types of new money the legislature puts in.

Senator Regan stated that the bottom line is who are the winners and who are the losers. Mr. Richards says the bottom line is how it is funded. If it is funded from property taxes alone, the wealthy districts are going to pay more property taxes. Senator Regan wondered what districts will be hit the hardest when it comes to distribution of funds. Mr. Richards says that the phase in problem will keep it from hitting any district drastically. It will help education costs for everyone.

Don Waldron replied that there is study out that shows the different sides, that says those districts where the least amount is spent on students are going to be the winners.

Senator Hammond closed and announced there will be a meeting Saturday, February 11, 1989 on adjournment of the Senate.

ADJOURNMENT

Adjournment At: 12:45 pm

H W Hammond
Senator H. W. Hammond, Chairman

HH/jh

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ROLL CALL

EDUCATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989 Date 2-9-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Swede Hammond	✓		
Vice Chairman Dennis Nathe	✓		
Senator Chet Blaylock	✓		
Senator Bob Brown	✓		
Senator Dick Pinsoneault	✓		
Senator William Farrell	✓		
Senator Pat Regan	✓		
Senator John Anderson Jr.	✓		
Senator Joe Mazurek	✓		

Each day attach to minutes.

SENATE EDUCATION

EXHIBIT NO. 1

DATE 2-9-89

BILL NO. SB 203 (NATHE)

	CURRENT	HB 575, KADAS	SB 203 NATHE	SB 198 REGAN
1.	17 funds for all school costs; reserves for each	Only 2 budgeted funds: general, bldg./debt. Reserves for each	Retain current funds except add comprehensive insurance to GF	Retain current funds except add retirement and workers' comp. to GF
2.	County retirement levy, using lottery for equalization; (25-mill average)	Eliminate levy; retirement in GF; lottery $ to state equalization	Separate fund but 90% equalized with state levy; lottery $ to state equalization	Eliminate levy; retirement in GF; lottery $ to state equalization
3.	District levy for comprehensive insurance; (5-mill average)	Insurance in GF, funded as part of FP	Included in GF as part of FP	Retain as separate fund, but workers' comp. in GF
4.	Separate tuition account	No tuition charges; students counted in school attended. Attendance agreements	No tuition charges; students counted in school attended. Attendance agreements	No change
5.	No limit on total expenditures; FP schedules not based on actual costs	FP schedules reflect FY 87 ave. expenditures per district size for all budgeted items but bldg./debt; voted cap at 117% of FP payment by 1995 (FP—85%, voted—15%)	FP schedules reflect 100% of FY 88 GF expenditures. Voted cap at 117% of FP	Study of proposed standards used as cost basis for new FP schedules; cap at 125% of FP (FP 80%, voted 20%)
6.	Mandatory 45-mill levy, collected at county (28 mills elem., 17 mills h.s.)	Mandatory 103 mills for elem., 63 mills, h.s. Substitutes for all nonvoted county/district levies except bldg./debt.	No change	No change
7.	Permissive levies for elem. and h.s.	Eliminate permissive levy	Eliminate permissive levy	Eliminate permissive levy

	CURRENT	HB 575, KADAS	SB 203 NATHE	SB 198 REGAN
8.	Voted levies unlimited except for I-105	Voted levies limited to 117% of FP plus transp. & spec. ed.; excluded from I-105	Voted levies limited to 117% of FP; excluded from I-105	Retain but cap at 25% above FP by FY 94; phase-in limit until then; 1st 10% of voted equalized by guarantee and recapture
9.	State revenue sources earmarked for FP	No change except add lottery	No change except add lottery	No change except add lottery
10.	County revenues received from federal forest funds, Taylor Grazing, motor vehicle, misc., used for county equalization	No change	No change	No change
11.	PL 874 not counted as resource for equalization	PL 874 counted under cap when state meets federal equity test	No change	PL 874 counted under cap when state meets federal equity test
12.	General fund reserve limit of 35%; no penalty for exceeding limit	20% limit on GF reserve by FY 95 except districts receiving no state equalization. Excess cash reappropriated or reverted to FP; appeal to OPI in special cases	20% limit on GF reserve except districts receiving no state equalization	No change
13.	FP structure & schedules based on school size	No change in categories; adjusted 216% to account for FY 87 average costs	No change in categories, adjust $ amount by factors to reflect FY 88 GF spending statewide; provide inflation index for automatic adjustment in future years	New schedules w/teacher experience factors and new school size categories

	CURRENT	HB 575, KADAS	SB 203 NATHE	SB 198 REGAN
14.	Minimum 180-day school year with no maximum; no limit on days creates disequity in FP payments	Funding is per student, not per days; see no. 15	No change	No change
15.	Payments based on average number belonging (ANB is 150,000, but actual pupils approx. 130,000)	ANB redefined; ANB based on ave. of 6 student counts per year	No change	Retain ANB method for new schedules
16.	Building/debt service not equalized	Legislative interim study	No change	No change; study suggested in HJR 16 work
17.	Transportation program separate	Transportation in GF. State funding of FY 90 costs-$30M. OPI & BPE study & distribute for FY 91; subject to expenditure cap	No change	No change; study suggested in HJR 16 work
18.	Special education separate appropriation; part of school general fund; separate accounting and OPI oversight	No change but payment subject to expenditure cap	No change	No change
19.	Elementary and high school districts may be separate	No change	No change	No change
20.	Current payment schedule is 5 times per year	12 monthly payments of at least 8%	Monthly payments with 20% 1st month	No change
21.	Additional components or issues	Adult educ. in GF; studies in No. 16 & 17		State guarantee of $100/ANB for 1st 10% above FP

	CURRENT	HB 575, KADAS	SB 203 NATHE	SB 198 REGAN
22.	Phase in	Effective for FY 91 school year; cap in effect for FY 95; 5-year grace period for limits on districts	Effective for FY 90 school year; cap in effect for FY 95	4-year phase-in of expenditure cap, effective July 1, 1989

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