MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By Chairman Schye, on June 21, 1989, at 1:30 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Andrea Merrill, Legislative Researcher David Cogley, Legislative Researcher Claudia Johnson, Committee Secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 19

Presentation and Opening Statement by Sponsor:

Rep. Boharski, House District 4, opened stating that this bill is an addition to HB 3 that he had presented earlier. This bill is:

"AN ACT TO PROHIBIT THE BOARD OF PUBLIC EDUCATION FROM ADOPTING A RULE WITH SUBSTANTIAL FINANCIAL IMPACT UNLESS THE PROPOSED RULE IS FUNDED BY THE LEGISLATURE; AMENDING SECTION 20-2-115, MCA; AND PROVIDING AND IMMEDIATE EFFECTIVE DATE".

Rep. Boharski stated that this bill basically states that the Board of Public Education may adopt accreditation standards, if the standards cause an substantial financial impact, and if it that has been defined as a cost that cannot be readily absorbed by a school district the BPE can adopt those standards only after they inform the Legislature and follow that procedure through the following July 1, for e.q., he stated that when "Project Excellence" came out of the interim study it was estimated to cost \$36 million. The BPE had changed the timing and "phase in" period of that bill and figured the financial impact was not quite that high but stated that there is a question as to the new accreditation standards and if they do in fact cause a substantial financial impact. Rep. Boharski stated that the example of "Project Excellence" might be a situation where the Legislature should be concerned because that is why they are here and that is to equalize the amount of spending per student across the state of Montana. He stated that if the

HOUSE COMMITTEE ON EDUCATION AND CULTURAL RESOURCES June 21, 1989 Page 2 of 8

level of 75 percent is reached and the Supreme Court is asked an opinion on that and the court has agreed that the figure is correct and if a new accreditation standard is adopted by the BPE and that standard might cost \$30-40 million more, than the amount of money funded by the Legislature would be \$30-40 million short of meeting that 75 percent. He stated that this bill keeps the BPE as the primary tool to set up the supervision and accreditation standards for the schools, but if those standards cost an substantial amount of money and are putting the Legislature at a risk as they are now, by not meeting the Constitutional mandate, this bill will prevent that.

Testifying Proponents and Who They Represent:

Rep. Roger Knapp, Representing House District 27

Proponent Testimony:

Rep. Knapp stated that he is in support of HB 19. He stated that with the new accreditation standards coming in the first of July, there are several schools struggling as to how to implement them now. Rep. Knapp stated that some of the problems have been created when the BPE dictates, but the money is not there and feels that this bill addresses those problems.

Testifying Opponents and Who They Represent:

Claudette Morton, BPE Eric Feaver, MEA Kay McKenna, Lewis and Clark Co. Supt. Bruce Moerer, Mt. School Board Assoc.

Opponent Testimony:

- Ms. Morton stated that the BPE has worked for the last two years with two Legislative Committees on House Joint Resolution 16. She stated that one of the issues in HJR 16 that had been asked of the two committees and the BPE, was for a fiscal note and budgeting system that provides articulation between the education policy makers and those that are responsible for balancing the budget be developed. She stated that during the interim study of the BPE and the two committees this problem was never brought up or addressed. She did feel that the reason that this was not addressed was because the system already existed and the definition of whether or not the standards were adequate. Ms. Morton stated that in the BPE's final report to the Legislature in January 1989, was that "the BPE still wished to work with the Legislature and address this issue". Ms. Morton reiterated those wishes.
- Mr. Feaver stated his opposition of HB 19. He stated that as "Project Excellence" is phased in there will be discontent

HOUSE COMMITTEE ON EDUCATION AND CULTURAL RESOURCES June 21, 1989 Page 3 of 8

between the BPE and the Legislature over; elementary counselors, librarians and class size that the Legislature has involved itself in as far as the standards they administer to mandatory kindergarten and the gifted and talented.

- Ms. Mckenna stated her opposition of HB 19, because it is the Legislature's job to make the statutes, the judiciary's job to interpret the statutes and the BPE and the OPI's job is to take care of the education.
- Mr. Moerer stated his opposition of HB 19 and said there does not need to be an diversion from the central issue facing the Legislature and that is the equalization of school funding.
- Questions From Committee Members: Rep. Phillips asked Ms. Morton why this issue of the BPE adopting standards that cannot be enacted upon for funding until the next Legislature was not addressed this last session in HJR 16? Ms. Morton stated that it might have been brought up but was never discussed in terms of any suggestions of policy or legal change in how to deal with it.
- Rep. Harrington asked Rep. Boharski if he believed that this Legislature should set standards and curriculum for the public school systems in the state of Montana? Rep. Boharski stated that he did not because the legislators do not have the background, input or the ability in 11 days much less 90 days, with all the facilities, opportunity and capability to set accreditation standards.
- Rep. Simpkins asked Ms. Morton regarding a meeting that had been held several evenings ago with the Administrative Code's Committee, about a question that had been asked of the BPE and Mr. Nicholson. The question was; Why had the BPE implemented administrative rules for the gifted and talented program when the BPE did not have any Legislative authority since the bill had been vetoed? Mr. Nicholson had replied that they had thought that over a period of time the Legislature might be able to work it out and pass a bill, then the administrative rule would be in effect. Mr. Nicholson had been told that the BPE should rescind the rule until the Legislature could reconsider the bill, and the response from Mr. Nicholson was; "we'll submit it to the BPE and if the Board wants to rescind the rule that's fine but if they don't" the indication was given that "I guess we'll have to let the courts decide what to do". Ms. Morton replied that she and Mr. Nicholson can only speak for the BPE based on the action the BPE has taken. The BPE at this time has a standard on the gifted and talented. She reiterated on HJR 16 that the BPE was acting under and had been asked to look at the adequacy of the accreditation standards in terms of some aspect of the definition. She stated that the BPE determined that the accreditation standards would never be the full definition of the system,

HOUSE COMMITTEE ON EDUCATION AND CULTURAL RESOURCES June 21, 1989 Page 4 of 8

but might well be the definition at some point of the instructional portion of the program. She stated that having been asked by the previous Legislature to come up with an adequate definition, and to leave out a whole group of students and ignore that in a definition would be irresponsible.

Closing by Sponsor: Rep. Boharski closed stating that the BPE has adopted standards that in 10 years down the road will cost the State \$36 million. He stated that the Legislature should have the final say as to what the State can afford to buy and what they cannot afford to buy.

HEARING ON HOUSE BILL 36

Presentation and Opening Statement by Sponsor:

Rep. Peck, House District 15, opened stating that this bill is strictly a correction bill.

"AN ACT TO APPROPRIATE REVENUE RECEIVED IN THE STATE TRAFFIC EDUCTION ACCOUNT TO THE OFFICE OF PUBLIC INSTRUCTION FOR DISTRIBUTION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE".

Rep. Peck stated that this bill deals with fines and forfeiture monies and not the tax dollars. He stated that during the budget process that the Office of Public Instruction had convinced the people that had put the bill together that they could take the language out of HB 100 dealing with the revenue for traffic eduction, because they thought it was in the statutes and would automatically be taken care of. Rep. Peck referred to the amendment. (See EXHIBIT 1).

Testifying Proponents and Who They Represent:

Kathy Fabiano, OPI Joe Williams, OBPP

Proponent Testimony:

Ms. Fabiano stated that the amendment introduced by Rep. Peck for HB 36, corrects two errors in the OPI appropriations in HB 100. She stated that the language that was in the appropriations bill in the previous Session was omitted by mistake in HB 100. This bill gives the OPI the authority to distribute money for the Driver's Education Program in the school districts in FY 1990. Ms. Fabiano stated that the amendment is a correction moving authority from a federal special revenue fund to the State special revenue fund. She stated that is reduces the federal authority and increases the State authority to purchase equipment at the advanced driver's education facility in Lewistown, MT. The authority was approved by the Education Subcommittee in the regular session. She stated that when she restructured the

HOUSE COMMITTEE ON EDUCATION AND CULTURAL RESOURCES June 21, 1989 Page 5 of 8

programs, she mistakenly put the appropriation in the federal fund.

Mr. Williams stated that he had worked with the OPI and asked that the Committee give this bill a do pass recommendation.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Rep. Peck closed.

DISPOSITION OF HOUSE BILL 36

"AN ACT TO APPROPRIATE REVENUE RECEIVED IN THE STATE TRAFFIC EDUCATION ACCOUNT TO THE OFFICE OF PUBLIC INSTRUCTION FOR DISTRIBUTION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE".

Motion: Rep. Glaser made the motion for HB 36 to do pass.

Discussion: (See EXHIBIT 1).

Amendments, Discussion, and Votes: Rep. Glaser made the motion to adopt the amendment. The question was called. The motion CARRIED unanimously.

Recommendation and Vote: Rep. Glaser moved a do pass as amended. The question was called. The motion CARRIED unanimously to DO PASS AS AMENDED.

DISPOSITION OF HOUSE BILL 6

Chairman Rep. Schye sponsored and presented HB 6 on June 20, 1989;

"AN ACT TO INCREASE BY 4 PERCENT THE MAXIMUM GENERAL FUND BUDGET SCHEDULES FOR ELEMENTARY SCHOOLS AND HIGH SCHOOLS FOR SCHOOL FISCAL YEAR 1989-90; TO APPROPRIATE FUNDS TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR STATE EQUALIZATION AID; AMENDING SECTION 20-9-316 AND 20-9-317, MCA; AND PROVIDING AN EFFECTIVE DATE".

Motion: Rep. Daily made the motion for HB 6 to do pass.

Discussion: Chairman Schye distributed two handouts regarding information on HB 6 and the amendments. (See EXHIBITS 2 and 3). Chairman Schye explained his amendments. With the new revenue estimates from the LFA's office the \$11 million does not need to be appropriated from the general fund. The money needs to be taken from the trust fund and will be covered by the money that will go into the trust fund as of June 30, 1990. It will take the trust fund up to now, and the money that will be coming in June 30, 1990 will bring up the Foundation Program to 0 and 0 and the 4 percent increase. The Education Trust fund has \$30.22 million which accounts for the \$28.6 million in the trust fund and the deposits from that are \$4 million which will leave \$200,000 remaining in the general fund.

- Amendments, Discussion, and Votes: Rep. Darko moved to adopt the amendment. (See EXHIBIT 3). The question was called. The motion CARRIED unanimously.
- Rep. Wallin made a motion to adopt the amendment to change the 4 percent to 3 percent for the first year.
- Rep. Daily spoke against the motion. He stated that the Governor has asked the Legislature to find ways of funding the equalization program and if he wants to veto this again, so be it.
- Rep. Glaser stated that he has worked with the Ramirez/Kadas' bill and would have to stay with the 4 percent.
- Chairman Schye stated that the Legislature is a separate arm of government and as legislators they do not need to fear vetoes, etc. Chairman Schye spoke against the amendment.
- Motion: Roll call vote was taken for the amendment to change the 4 percent to 3 percent. The motion FAILED 7/17.

Recommendation and Vote: The question was called. Roll call vote was taken. The motion CARRIED 23/1 to DO PASS AS AMENDED. Rep. Simpkins voted no.

DISPOSITION OF HOUSE BILL 3

Rep. Boharski sponsored and presented HB 3 on June 20, 1989;

"AN ACT DEFINING BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS; DEFINING THE STATE'S SHARE OF SUPPORT FOR THE SYSTEM; AND AMENDING SECTION 20-9-301, MCA".

Motion: Rep. Phillips moved a do pass on HB 3.

Discussion: Rep. Eudaily asked if this bill could be held off and placed into a study committee. He stated that basic eduction cannot be defined in a few days, it is too complicated and too many ramifications.

Rep. Glaser asked Rep. Phillips if he would withdraw his motion.

Rep. Simpkins distributed a handout on the Board of Public

HOUSE COMMITTEE ON EDUCATION AND CULTURAL RESOURCES June 21, 1989 Page 7 of 8

Education standards. (See EXHIBIT 4).

Rep. Simpkins stated that this bill specifically states that the State Board of Public Education has the responsibility for the accreditation standard, and when the standards are adopted by the administrative rules, everything is covered, i.e., size of classrooms, the pupil/teacher ratios, the number of administrators for the size of the school, and what courses are to be taught, etc.. Rep. Simpkins stated that the State Board of Public Education will continue to publish by administrative rule the accreditation standards for schools. He stated that he has spoken with Claudette Morton about HJR 16 in defining basic education and she feels that the BPE has done their job in not only basic education, but basic quality education. Rep. Simpkins stated that the Legislature keeps postponing putting into law what the State Board of Public Education has given the legislators to put into law. He stated that one of the problems with Judge Loble's decision was that basic eduction was not defined. Rep. Simpkins quoted what Judge Loble had stated "well you just can't use accreditation standards, there is more to it, to the basic quality education system than just the accreditation standards". Rep. Simpkins stated that Judge Loble did not have any guidance from this legislative body of how to define exactly what a basic education system of education is that the Legislature is required to fund. The only thing Judge Loble had to use was the dollar amount. Rep. Simpkins stated that is why the state of Montana has wound up in this fix because of disparity between the dollars and no one knows what the dollar is buying out there. He said that Legislature has the authority to amend the rules and laws they put into affect at anytime, and this one is a simple one that delegates the authority and gives the authority to the State Board of Public Education to establish accreditation standards. He stated that Rep. Boharski added transportation, maintenance and operation of the physical facilities. Rep. Simpkins stated that the legislators should not get into a lengthy document of defining accreditation standards as put out by the Office of Public Instruction as coordinated by the Board of Education.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Harrington moved to TABLE HB 3. Rep. Phillips withdrew his motion. No further action was taken.

DISPOSITION OF HOUSE BILL 19

"AN ACT TO PROHIBIT THE BOARD OF PUBLIC EDUCATION FROM ADOPTING A RULE WITH SUBSTANTIAL FINANCIAL IMPACT UNLESS THE PROPOSED RULE IS FUNDED BY THE LEGISLATURE; AMENDING SECTION 20-2-115, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE". Motion: None

Discussion: Rep. Grinde asked Chairman Schye for more time because he is not satisfied with the way the bill was drafted. Rep. Grinde stated that there were some specific things that need to be addressed and would like to research it further before any action was taken.

Amendments, Discussion, and Votes: None

Recommendation and Vote: None

There being no further business the Committee was adjourned.

ADJOURNMENT

Adjournment At: 5:00 p.m.

REP. TED SCHYE Chairman

TS/cj

040621.min

DAILY CALL VOTE

EDUCATION AND CULTURAL RESOURCES COMMITTEE

DATE 6-21-89

NAME	PRESENT	ABSENT	EXCUSED
REP. SCHYE, CHAIRMAN			
REP. DAILY, VICE-CHAIRMAN			
REP. COBB			
REP. COCCHIARELLA	V		
REP. DARKO			
REP. DAVIS			
REP. EUDAILY	~		
REP. GERVAIS			
REP. GLASER			
REP. GRINDE			
REP. HARRINGTON	V		
REP. JOHNSON	V		
REP. KIMBERLEY			
REP. KILPATRICK	4		
REP. NELSON	V		
REP. PECK	V		
REP. PHILLIPS	V		
REP. SIMPKINS	V		
REP. SPRING, JR.	V		
REP. STANG "SPOOK"	V		
REP. THOMAS	/		
REP. WALLIN	V		
REP. WYATT	V		
REP. ZOOK			

STANDING COMMITTEE REPORT

HOUSE BILL 36

"An Act to Appropriate Revenue Received in the State Traffic Education Account to OPI"

June 21, 1989

Page 1 of 1

Mr. Speaker: We, the committee on <u>Education and Cultural</u> <u>Resources</u> report that <u>HOUSE BILL 36</u> (first reading copy -white) <u>do pass as amended</u>.

Signed:_______Ted Schye, Chairman

And, that such amendments read:

2. Title, line 7. Strike: "IMMEDIATE" Following: "DATE" Insert: "OF JULY 1, 1989"

3. Page 1, line 14.

Insert: "NEW SECTION. Section 2. There is appropriated from the State special revenue fund \$25,000 for the fiscal year ending June 30, 1990 to the superintendent of public instruction for equipment replacement and site improvements at the advanced drivers education facility in Lewistown. The fiscal year 1990 appropriation to the superintendent in the federal special revenue fund is reduced to \$25,000."

Renumber: subsequent sections

4. Page 1, line 15. Following: "effective" Strike: "on passage and approval" Insert: "July 1, 1989"

STANDING COMMITTEE REPORT HOUSE BILL 6

"An Act to Increase by 4 Percent the Maximum General Fund Budget Schedules for Elementary Schools and High Schools for School Fiscal Year 1989-90"

June 21, 1989

Page 1 of 1

Mr. Speaker: We, the committee on <u>Education and Cultural</u> <u>Resources</u> report that <u>HOUSE BILL 6</u> (first reading copy -white) <u>do pass as amended</u>.

Signed: Schve, Chairman

And, that such amendments read:

ŝ

*ي*ا

1. Page 5, line 1.
Following: "1989,"
Insert: "and any money accruing as of June 30, 1990,"

2. Page 5, lines 6 to 11. Strike: subsection (3) in its entirety

EXHIBIT

Amendment to HB 36 as introduced

Page 1, Line 6 n <u>,</u> n Following: "TO APPROPRIATE TO THE OFFICE OF PUBLIC Insert: INSTRUCTION REVENUES ACCUMULATED IN THE ADVANCED DRIVERS EDUCATION ACCOUNT;" Page 1, Line 7 "providing" Following: Strike: "an immediate" Insert: "a July 1, 1989" Page 1, Line 14 Insert: NEW SECTION. Section 2. There is appropriated from the State special revenue fund \$25,000 for the fiscal year ending June 30, 1990 to the Superintendent of Public Instruction for equipment replacement and site improvements at the Advanced Drivers Education Facility in Lewistown. The fiscal year 1990 appropriation to the Superintendent in the federal special revenue fund is reduced \$25,000." RENUMBER: subsequent sections Page 1, Line 15 Following: "effective" "on passage and approval"

Strike: "on passage and app Insert: "July 1, 1989"



STATE OF MONTANA

Office of the Legislative Fiscal Analyst

STATE CAPITOL HELENA, MONTANA 59620 406/444-2986

June 21, 1989

EXHIBIT____

TO: Representative Ted Schye Seat 20

FROM: Curt Nichols Deputy Fiscal Analyst

SUBJECT: Public School Funding

If public school schedules are increased 4 percent in fiscal 1990 and the principal and coal tax deposits to the education trust fund are appropriated along with currently earmarked public school equalization revenues, no general fund appropriation would be required to support school equalization in fiscal 1990. This is based on House Joint Resolution 13 revenue estimates and revised estimates reported by this office. Table 1 below illustrates.

Table 1 Education Trust Funding of 4 Percent Schedule Ir (Millions)	ncrease - FY 1990
	<u>Fiscal 1990</u>
Cost of School Equalization with 4% Increase Revenues Available	\$289.86 _259.85
Additional Revenue Needed Education Trust Fund	30.01 <u>30.22</u>
Revenue Remaining	\$ <u>21</u>

As table 1 indicates, if Education Trust funds are used, the 4 percent schedule increase can be funded and a \$210,000 surplus would remain.

JUDY RIPPINGALE LEGISLATIVE FISCAL ANALYST

The calculation of the Education Trust fund amounts available in fiscal 1990 if both the fund balance and fiscal 1990 coal tax deposits are used is shown in Table 2.

Table 2 Education Trust Fund Amounts Available (Millions)	
Education Trust Fund	Amount
Fiscal 1989 Ending Balance Fiscal 1990 Deposit Fiscal 1990 Interest Loss to Schools	\$28.66 4.02 <u>(2.46)</u>
Funds Available	<u>\$30.22</u>

	ラ	
EXHIB!		10-1-1
DATE_	4/21	189
HB	"Le	
<u></u>		

Amendments to HB Bill No. 6 1st Reading Copy

Requested by Rep. Schye For the House Education Committee

> Prepared by Andrea Merrill June 21, 1989

1. Page 5, line 1.
Following: "1989"
Insert: "and any money accruing as of June 30, 1990,"

2. Page 5, lines 6 to 11. Strike: subsection (3) in its entirety

EXHIBIT DATE_Le

individuals, and has had re-enforced what it has always known: the art of setting good educational public policy is a matter of recognizing what is best for the children of Montana, tempered by what is practical for Montana. In this case, after much careful deliberation, the Board does believe that its proposed standards are educationally sound and that they are standards which will adequately define the instructional portion of "the basic system of free quality elementary and secondary schools." In this way, no matter where children attend school in Montana, there are common expectations about what they will have the opportunity to learn and that they will have access to the resources to help them accomplish this critical task--the task of being prepared to be productive citizens for the next century.

5

III. CONCLUSIONS REACHED BY THE BOARD OF PUBLIC EDUCATION

Throughout its work on HJR 16, the Board made several significant decisions. The first group of conclusions has to do with the request by HJR 16 for a "definition of basic education." As was stated earlier in this report, the Loble decision profoundly affected how policy makers approach definitions. The Board is on record as supporting the following:

Any state definition should be for "the basic system of free quality public elementary and secondary schools" as stated in the constitution;

The instructional portion of the basic system is defined by the accreditation standards;

Particular items to be considered as part of "the system" are: special needs students, libraries, up-to-date resources, equipment, textbooks, supplementary materials and basic supplies to meet the required instructional program as outlined in the accreditation standards;

Teacher retirement, teacher experience, in-service training; salaries, support personnel, insurance, capital outlay, transportation, co-curricular and extra curricular programs and local governance should be considered when defining "the system."

Second, the Board was to determine the adequacy of the accreditation standards. It believes:

That the current accreditation standards are not adequate. They are outdated and not reflective of current thinking and societal changes.

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE_	6/21/89	BILL NO. HBG	NUMBER #
-------	---------	--------------	----------

ME	AYE	NAY
Rep. COCCHIARELLA		
Rep. COBB		
Rep. DARKO		
Rep. DAVIS		V
Rep. EUDAILY		
Rep. GERVAIS		V
Rep. GLASER		
Rep. GRINDE		
Rep. HARRINGTON		V
Rep. JOHNSON		~
Rep. KILPATRICK		
Rep. KIMBERLEY		<u> </u>
Rep. NELSON		_ <u>_</u>
Rep. PECK		L
Rep. PHILLIPS		
Rep. SIMPKINS	i i i i i i i i i i i i i i i i i i i	
Rep. SPRING		V
Rep. STANG		1-
Rep. THOMAS		
Rep. WALLIN	···	
Rep. WYATT		
Rep. ZOOK		
CHATRMAN SCHYE		V
VICE CHAIRMAN DATLY		

TALLY

USO SE

CHAIRMAN

5

Mot MOTION: 70 W in

ROLL CALL VOTE

EDUCATION AND CULTURAL RESOURCES

COMMITTEE

DATE 6/21/89 BILL NO. HBG	NUMBER 2	- <u>41</u>
NAME	AYE	NAY
Rep. COCCHIARELLA	V	
Rep. COBB		
Rep. DARKO		
Rep. DAVIS		
Rep. EUDAILY		
Rep. GERVAIS		
Rep. GLASER		
Rep. GRINDE		
Rep. HARRINGTON		
Rep. JOHNSON		
Rep. KILPATRICK		
Rep. KIMBERLEY		
Rep. NELSON		
Rep. PECK		
Rep. PHILLIPS		
Rep. SIMPKINS		
Rep. SPRING		
Rep. STANG	K	
Rep. THOMAS	V	
Rep. WALLIN		
Rep. WYATT		
Rep. 200K		
CHATRMAN SCHYE		
VICE CHAIRMAN DATLY		

TALLY

30 CRETARY

2 CHAIRMAN

MOTION: on (ARRIET 2 AMENDEI As 5.5