

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By Chairman H.W. Hammond, on June 29, 1989,
at 10:30 a.m.

ROLL CALL

Members Present: Senator John Anderson, Senator Chet
Blaylock, Senator Bob Brown, Senator Bill Farrell,
Senator Joe Mazurek, Senator Dick Pinsoneault, Senator
Pat Regan, Senator Dennis Nathe, and Senator H.W.
Hammond

Members Excused: None

Members Absent: None

Staff Present: Dave Cogley, Legislative Council

Announcements/Discussion: None

DISPOSITION OF HOUSE BILL 6

Senator Mazurek explained what HB 6 did to the Committee.
He said the bill establishes schedules for 1990. It
would provide for a 4% increase by wiping out the
education trust fund.

Chairman Hammond added that on the last page of the bill it
would provide any money that was left over, to go into
that fund.

Senator Farrell asked Dave Cogley about the appropriation
section and if there was any money remaining as of June
30, 1989? Senator Farrell stated, "Do you know what
the figure is and is that a fair appropriation? Under
section 29-343 that says there has to be a specific
amount listed to be an appropriation. In HB 618 there
was a specific amount. According to what that section
says, you have to list an amount that we are going to
appropriate?" Dave Cogley stated that he thought it
said a single sum of appropriations. He said there was

language in 29-343 that stated a legislative appropriations for state equalization aid shall be made in a single sum for the biennium. Mr. Cogley said that it would indicate, you would have to have one appropriation for both years of the biennium. He said that it raised the question, if you could spilt the first year with one bill and the second bill with 203. He said there was an amendment in SB 26 now, that was in SB 203 during the regular session, to delete this requirement for a single sum appropriation. He stated, "Right now that amendment has not been adopted and the law says you need a single sum appropriation." Mr. Cogley said they drafted, with the LFA's concurrence, all of these bills that appropriated educational trust fund moneys without a specific amount for the reason. He said, that as of June 30, they didn't know exactly what that amount would be. He said they felt that it would be sufficient, to identify that amount of appropriation on June 30. He stated, "You are asking me if there was an illegal problem with doing that?" (Senator Farrell stated all the previous bills have put a sum in there.) Dave Cogley responded by saying if the section was not amended, there would be a possibility of questioning it. Mr. Cogley went on to say that specifying the amount was not the problem. The problem was that you were making an appropriation for one year of the biennium without the second year. He stated that you were not making a biennial appropriation. The statute says it has to be a single sum for the biennium.

Senator Farrell stated that we needed to amend the statute. Dave Cogley said that they put the statute into SB 26 as well as all the bills, just to clarify that you don't need a single sum appropriation for the biennium. Mr. Cogley said, "Remember you are the Legislature and you are basically free to do whatever you like as long as you don't change a constitutional amendment."

Senator Farrell asked Dave Cogley how much money they were appropriating? Dave Cogley answered somewhere between 29 and 30 million dollars. He said that is what it would be as of June 30th for our revenue projection as of now.

Chairman Hammond asked Dave Cogley that there was not a sum certain because they put in whatever was left? Mr. Cogley indicated that they had identified the amount of money Chairman Hammond was talking about, by specifying the account that it was coming from. Mr. Cogley stated that it was the balance of that account. He said the fact that they hadn't specified the exact number of

dollars, didn't cause any problems with this statutory provision.

Senator Farrell asked Mr. Cogley what happens if there wasn't enough money in that account to cover the cost of the schedules? Dave answered according to the LFA there is more than enough money to cover the account.

Senator Farrell asked Mr. Cogley what if there wasn't enough money? Dave answered then there would be a need for a supplemental appropriation.

Senator Farrell asked Mr. Cogley what if the Committee would happen to appropriate some money out of another trust from some other bill? He asked what if there was not enough money in the bill and then the Committee passed this bill? He wondered if this would allow the schools to come back for a supplemental if there was not enough money left in the education trust? Mr. Cogley said that it would be a statute 29-9-351 that would require them to come back and ask for an appropriation.

Senator Regan asked if they had to prorate? Greg Groepper stated that was correct and that the statute directs them to request a supplemental if there was insufficient funds.

Chairman Hammond asked what if there was more money in the schedules to cover expenses? Greg Groepper stated that they would still be constrained by the schedules. Therefore, they could not pay them more than the scheduled amount. He said that anything left over after the schedule payment was made, would be an ending fund balance in the foundation program. It then would be cash reappropriated to the second year of the biennium. Greg Groepper went on to explain that the amount of money that the Committee appropriated was less than the schedules, OPI would prorate, if a supplemental was not approved, that final payment to the districts. He stated they would pay them whatever amount they could afford up to the limit of the appropriation.

Senator Farrell asked Greg Groepper if the Committee would be better off specifying a number? Mr. Groepper answered that they would be better off having a statutory provision in the foundation program. He stated that if the Legislature gives them a specific dollar, they never know what the enrollments actually are until the Legislature is gone. Mr. Groepper said, "If you give us a specific dollar amount, OPI may be in the situation to come back and adjust that dollar

amount.

Senator Mazurek asked Dave Cogley if there was a bill before this session, that appropriates the education trust.

Dave Cogley stated that the only bill that touches this money was House Bill 39.

Motion: Senator Blaylock moved that HB 6 BE CONCURRED IN.

Discussion: Senator Farrell asked if the schedules are at 0 and 0 plus 4% in the schedules, all in one bill? "If this bill goes down, the schools don't even have their's at 0 and 0." Mr. Cogley indicated that was correct.

Senator Blaylock stated that he had asked Madalyn Quinlan to run some figures so the Committee would know what HB 6 affected. He said the cost, of school equalization with the 4% increase, was 289.86 million. Revenues available, with the 45 mill operating for this coming year, was 259.85 million. The additional revenue needed 30.01 the Educational Trust Fund had 30.22. Senator Blaylock said they would wind up with \$210,000 left in that fund.

Senator Farrell asked Dave Cogley if there was a way to appropriate the 4% separately from the 0 and 0? Dave Cogley answered that one way, was to leave the current figures in the schedules for the coming year with 0% and have a rider provision allowing OPI to grant to pay an additional 4% of each distribution.

Senator Farrell followed up by asking if the schedules that were in the bill figured at 0 and 0? Dave Cogley answered that the schedules in here, with these numbers, are figured with a 4% increase.

Greg Groepper addressed Senator Farrell's question on separating the schedule from the 4%. Greg Groepper replied, "If you say the Office of Public Construction can do the 4%, you would have to leave them some set of conditions to address it." He also indicated that the Legislature would have to address the condition, if the Office of Public Construction could pay more money that was in the schedules. Mr. Groepper stated, "It sounds like you are delegating this decision on an administration on whether to pay 0 or 4%."

Senator Farrell asked if there was a bill that brought them to 0 and 0 and a bill to bring us to 4%? Dave Cogley stated that there were bills in the House to do just

that, but he didn't know the status of the bills were.

Senator Blaylock asked what are those bills and what assurance did he have that they were going to get over here?

Senator Pinsoneault asked if they could create two committee bills and separate the 0 and 4%?

Senator Blaylock indicated that in all the sources he checked, the Governor's Office was not aware what they did when they vetoed 618. Senator Blaylock stated that

the Governor's Office thought they were vetoing the 4% increase. He said, "They did not realize they torpedoed the foundation program 180 million dollars of it to bring it to 0 and 0. I would not think he would do that again, because the schools would not open if he vetoes this piece of legislation."

Senator Pinsoneault stated, "Let's do what's right and let government work. Let the burden fall where it may fall."

Senator Farrell stated let's do what is right by putting a 4% increase in a separate bill so at least we would get 0 and 0 if he vetoes it. He stated, "The Governor already said no to this one, one other time."

Senator Blaylock stated that this 4% would not go into the base that it was for the next school year.

Dave Cogley reported that HB 41 was still in the House Education Committee. HB 41 was set at 2% increase.

Senator Brown asked that if HB 41, with the 2% increase, was built into the same manner as HB 6 was with the 4% increase. Dave Cogley stated yes.

Senator Brown stated that the Governor could not eliminate the increase of HB 41 either. Dave Cogley said he did not have the bill in front of him, (HB 41) to state that's how it was structured. He said he thought they just increased the figures in the schedules by 2% rather than a 4% figure.

Dave Cogley stated there was no appropriation authority for OPI to make payments under those schedules. There might be an alternative, that if one appropriation is vetoed, it reverts to the other appropriation.

Senator Farrell asked if that could be put into this bill.

Dave Cogley indicated that he thought it could but needed time to work on it.

Senator Blaylock stated that amendment could be made on the floor and that his motion still stands.

Amendments, Discussion, and Votes: None

Recommendation and Vote: The question was called for and a role call vote was taken. The motion carried unanimously TO BE CONCURRED IN.

Senator Blaylock was assigned to carry HB 6 on the Senate floor.

ADJOURNMENT

Adjournment At: 11:25 P.M.


SENATOR H.W. HAMMOND, Chairman

HH/jj

SENATE STANDING COMMITTEE REPORT

June 29, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 6 (third reading copy -- blue), respectfully report that HB 6 be concurred in.

Sponsor: Schye (Blaylock)

DO BE CONCURRED IN

Signed: H. W. Hammond
H. W. Hammond, Chairman

41.0.189
11/20/89
6.8.86

ROLL CALL VOTE

SENATE COMMITTEE EDUCATION

Date 6/29/89 Bill No. HB 6 Time 11:25A

NAME	YES	NO
SENATOR NATHE	✓	
SENATOR BLAYLOCK	✓	
SENATOR BROWN	✓	
SENATOR PINSONEAULT	✓	
SENATOR FARRELL	✓	
SENATOR REGAN	✓	
SENATOR ANDERSON	✓	
SENATOR MAZUREK	✓	
SENATOR HAMMOND	✓	

Secretary _____

Chairman _____

Motion: HB 6 Be concurred in
