

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION

Call to Order: By SENATOR CHET BLAYLOCK, on January 30, 1991, at 3:00 P. M.

ROLL CALL

Members Present:

Chet Blaylock, Chairman (D)
Harry Fritz, Vice Chairman (D)
Bill Farrell (R)
H.W. Hammond (R)
Dennis Nathe (R)
Dick Pinsoneault (D)
Mignon Waterman (D)
Bill Yellowtail (D)

Members Excused: Robert Brown (R)

Staff Present: Eddy McClure (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: none

HEARING ON SB 179

Presentation and Opening Statement by Sponsor:

Senator Pipinich of District 33 introduced SB 179 which is a bill allowing school trustees to waive certain requirements for unforeseen emergencies. See Exhibit 1.

Proponents' Testimony:

Bruce Moerer, MT School Boards Association, testified that the association he represents asked Senator Pipinich to sponsor SB 179. The issue which brought this to MSBA's attention did arise in the Bonner School District which is in Senator Pipinich's district. Mr. Moerer stated that there is a problem in an emergency with these three legal requirements. The law has

no exception to holding a meeting on school property but in the case of Bonner, the only building that they had available for meetings was contaminated with asbestos and had to be sealed off.

The law says that a school board has to give 48 hour written notice of a meeting to the trustees of the school board. The Environmental Protection Agency told the school that they must clean up immediately and the law wouldn't allow them to meet without notice. The Bonner District was very concerned about the laws they were violating but they knew they had no option.

Members of MSBA feel that it is unwarranted to put a school board in this type of situation when along with all the other problems they have, they are worried about violating laws. The bill is straight forward and does not allow any exceptions to the budget caps. In the event money is needed, a school board would still go through OPI for approval. MSBA would appreciate your support of this legislation.

Jess Long, School Administrators of MT, testified in support of SB 179.

Opponents' Testimony:

none

Questions From Committee Members:

Senator Blaylock asked Bruce Moerer if he felt that there were enough safeguards in SB 179 to insure against other types of meetings that did not constitute an emergency.

Bruce Moerer said that he felt that SB 179 would not allow for any legal abuse.

Closing by Sponsor:

Senator Pipinich urged the committee to pass SB 179.

SENATOR PINSONEAULT MOVED that SB 179 DO PASS. Vote was unanimous. MOTION CARRIED.

SENATOR PINSONEAULT MOVED that SB 179 be put on the CONSENT CALENDAR. Vote was unanimous. MOTION CARRIED.

HEARING ON SB 180

Presentation and Opening Statement by Sponsor:

Senator Waterman, District 22, presented SB 180 which requires school board trustees to provide actuarially sound group benefit plan.

The Helena and Bozeman School Districts recently wanted to set up

self funded health insurance plans. In the process of doing that, the administrator for the plan wanted a letter from the District's attorney clarifying that they had the authority because they had not found in the law where they could. The attorney, in researching the law, said that he wasn't sure that there was clear authority in Montana statutes even though there are several districts in the state that have done so. Laurel, Billings and Miles City have had self funded health insurance plans for some time so this is merely a clarification in the law that makes it legal.

The School Board Association has proposed an amendment on SB 188. Senator Waterman stated that she had no problem with the amendment.

Proponents' Testimony:

Bruce Moerer, SBA, offered an amendment to SB 180. See Exh 2. He felt that it clarified the bill in case there was an issue. Bozeman did a study and felt that they could do better for their District if they self insured their help. The administrator who was going to do the program asked the Bozeman School District to provide them with the opinion of their attorney that they had the authority to do the program.

The attorney in Bozeman in checking through the statutes and felt that schools might not have the authority to self insure their help. That attorney refused to issue an opinion. Billings had an opinion from their attorney giving approval. Bozeman still refused saying that the statute that the other attorney relied on was accurate; that it did not apply to health insurance. A number of districts do have their own program; this bill is intended to clarify.

The following persons were also in support of SB 180:

Jess Long, SBA.
Jan Wright, MEA.
Debbie Kehr, Trustee, Helena School Board.

Opponents' Testimony:

none

Questions From Committee Members:

Senator Blaylock asked Debbie Kehr how often an actuary comes evaluates their program. She said once a year.

Closing by Sponsor:

Senator Waterman asked the committee to support SB 180.

SENATOR FARRELL MOVED that the amendment to SB 180 as proposed by Montana School Board Association DO PASS. The vote was unanimous. MOTION CARRIED.

SENATOR FARRELL MOVED that SB 180 as amended DO PASS. The vote was unanimous. MOTION CARRIED.

VOTE ON SB 141:

SENATOR NATHE MOVED that the amendments on SB 141 DO PASS. The vote was unanimous. MOTION CARRIED.

SENATOR YELLOWTAIL MOVED that SB 141 DO PASS as amended. The vote was unanimous. MOTION CARRIED.

VOTE ON SB 117:

SENATOR NATHE MOVED that the amendments on SB 117 DO PASS. The vote was unanimous. MOTION CARRIED.

SENATOR PINSONEAULT MOVED that SB 117 DO PASS as amended. The vote was called. Five voted aye; four voted no. Roll was called. Senators Fritz, Brown, Pinsoneault, Hammond and Nathe voted aye; Senators Blaylock, Farrell, Yellowtail and Waterman voted no. MOTION CARRIED.

VOTE ON SB 127:

SENATOR NATHE MOVED that SB 127 DO PASS. Seven voted aye; Senator Blaylock voted no. MOTION CARRIED.

VOTE ON SB 143:

An amendment is included which states that it is the intent of the Legislature that public education for the first two years of implementation limit the number of districts that may be approved for this variance.

SENATOR YELLOWTAIL MOVED that the amendments on SB 143 DO PASS. The vote was unanimous. MOTION CARRIED.

VOTE ON SB 84:

SENATOR FRITZ MOVED that the amendments on SB 84 DO PASS. The vote was unanimous. MOTION CARRIED.

SENATOR WATERMAN MOVED that SB 84 DO PASS as amended. Five voted aye; Four no. Roll was called. MOTION CARRIED.

ADJOURNMENT

Adjournment At: 5:20 P. M.



SENATOR CHET BLAYLOCK, Chairman



BETSY CLARK, Secretary

CB/bc

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 31, 1991

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 180 (first reading copy - white), respectfully report that Senate Bill No. 180 be amended and as so amended do pass:

1. Page 2, line 12.

Following: "district"

Insert: "implements a self-insured group health plan"

Signed: _____

Chet Blaylock, Chairman

JA 1-31-91
Asst. Coord.

SB 1/21 1:35
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 31, 1991

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 141 (first reading copy - white), respectfully report that Senate Bill No. 141 be amended and as so amended do pass:

1. Page 1, line 17.

Following: "perform"

Insert: "any or"

2. Page 5, lines 19 through 21.

Following: "of"

Strike: the remainder of line 19 through "a" on line 20

Following: "1990" on line 21

Strike: "cooperative"

Insert: "cooperatives formed after June 30, 1990"

Signed: Chet Blaylock

Chet Blaylock, Chairman

MM 1-31-91
And. Coord.

SP 1-31 1:35
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 31, 1991

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 117 (first reading copy - white), respectfully report that Senate Bill No. 117 be amended and as so amended do pass:

1. Page 1, line 16.

Following: "~~valuables~~"

Insert: "after consulting with the student body government at the unit of the university system affected by the regents' policy"

Signed:

Chet Blaylock, Chairman

Ad. Coord.

Sec. of Senate

220928SC.Sji

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
January 31, 1991

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 84 (first reading copy -- white), respectfully report that Senate Bill No. 84 be amended and as so amended do pass:

1. Title, line 10.

Following: "RESTRAINT;"

Insert: "TO PROVIDE AN AFFIRMATIVE DEFENSE;"

2. Page 1, line 18.

Following: "penalty"

Insert: " -- defense"

3. Page 2, line 8.

Following: "means"

Strike: "the willful infliction of"

Insert: "knowingly and purposely inflicting"

4. Page 2, lines 14 and 15.

Following: "restraint"

Insert: ", defined as the placing of hands"

Following: "pupil"

Strike: "as"

Insert: "in a manner that"

5. Page 2, line 21.

Following: "pupil:"

Strike: "or"

Insert: "(v) maintain the orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or"

Renumber: subsequent subsection

6. Page 2, lines 23 through 25.

Following: "(b)"

Strike: the remainder of line 23 through "section" on line 25

Insert: "Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not constitute corporal punishment as long as the restraint is reasonable and necessary"

7. Page 3, line 10.

Following: "trustees"

Insert: "and the county superintendent"

8. Page 3, line 14.
Following: "principal,"
Strike: "or"

9. Page 3, line 15.
Following: "trustees"
Insert: ", or the county superintendent"

10. Page 3, line 19.
Following: "uses"
Insert: "corporal punishment or"

11. Page 3, line 24.
Following: line 23
Insert: "(8) A person named as a defendant in an action brought under this section may assert as an affirmative defense that the use of physical restraint was reasonable or necessary. If that defense is denied by the person bringing the charge, the issue of whether the restraint used was reasonable or necessary must be determined by the trier of fact."

Signed Chet Blaylock
Chet Blaylock, Chairman

LR 1/31/91
Amd. Coord.

SB 1/31 1:35
Sec. of Senate

ROLL CALL VOTE

SENATE COMMITTEE EDUCATION

Date 1-30-91 Bill No. 143 Time 3:30 p.m.

NAME	YES	NO
SENATOR BLAYLOCK, CHAIRMAN	✓	
SENATOR FRITZ, VICE-CHAIRMAN		✓
SENATOR FARRELL	✓	
SENATOR BROWN		
SENATOR PINSONEAULT	✓	
SENATOR HAMMOND		✓
SENATOR YELLOWTAIL	✓	
SENATOR NATHE		✓
SENATOR WATERMAN	✓	

Secretary _____

Chairman _____

Motion: Senator Yellowtail moved that
SB 143 Do PASS.
(Statement of Intent)

SB 143 - Allow school districts to conduct
less than 180 days if equivalent
provided. (Sponsor = Waterman)

ROLL CALL VOTE

SENATE COMMITTEE EDUCATION

Date 1-30-91 Bill No. 84 Time

Amendments

NAME	YES	NO
SENATOR BLAYLOCK, CHAIRMAN	✓	
SENATOR FRITZ, VICE-CHAIRMAN	✓	
SENATOR FARRELL	✓	
SENATOR BROWN	✓	
SENATOR PINSONEAULT	✓	
SENATOR HAMMOND	✓	
SENATOR YELLOWTAIL	✓	
SENATOR NATHE	✓	
SENATOR WATERMAN	✓	

Secretary

Chairman

Motion: Senator Pinsoneault moved that
amendments be adopted.
SB 84. Vote was unanimous.
Do PASS.

Proposed Amendments to SB 141

White Copy

1. Page 1, line 17
following: "perform"
insert: "any or"
2. Page 5, line 19 & 20
following: "of"
strike: "special education funding within"
3. Page 5, line 20
following: "education"
insert: "cooperatives formed after June 30, 1990."
4. Page 5, line 21
strike: "cooperative"

No exhibits were transmitted with the minutes.

1-30-91

COMMITTEE ON

Education

VISITORS' REGISTER

[illegible]