

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION

Call to Order: By SENATOR CHET BLAYLOCK on March 8, 1991, at
3:00 P. M.

ROLL CALL

Members Present:

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

Staff Present: Eddy McClure (Legislative Council).

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

HEARING ON 348

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BOB GERVAIS, House District 9, presented HB 348
requiring a legible/formal sign be displayed near or attached to
imitation Indian arts/crafts designating articles as imitation.

He said unemployment (some 80%) on the Indian reservations is of
great concern and there is a need to identify the authentic
Indian arts and crafts as such.

He said that many imitation articles are being sold and at
cheaper prices in Montana as authentic Indian craft work. He

feels much imitation work is inferior and doesn't meet standards of Indian workmanship. Many Indians have given up doing their native beadwork/crafts because of competition/low prices.

Proponents' Testimony:

JACKIE PARSONS, Director, Northern Plains Indian Crafts Association. (In office 18 years). All of their items for sale except books and cards must be made by an Indian.

Ms. Parsons praised Indian art and the place it holds in state's history/natural resources. Said the seven Montana Indian tribes look to the legislature and the state for protection. This bill, long overdue, will force retailers to separate and mark authentic hand produced Indian arts and crafts from other products made by non-Indian people--products she described as being inferior, factory-made copies of Indian products. She said authentic Indian crafts are hand made, unique and beautiful; handed down from many generations. Indian artists should not have to compete with foreign factories. There has been no effort to protect Indian arts and crafts. Urged committee's support.

Other speakers in support of HB 348:

NICHOLAS VROOMAN, Montana Arts Council
GLORIA HERMANAN, Montana Cultural Advocacy

There were no opponents to HB 348.

Questions From Committee Members:

SENATOR PINSONEAULT asked if each Indian tribe represents different types of art and if items can be distinguished one from another. Ms. Parsons answered yes to both questions.

Closing by Sponsor:

REPRESENTATIVE GERVAIS emphasized that HB 348 is not written to stop the sale of non-authentic Indian articles but rather that these products be identified as being imitation Indian products. He said other states have this law to protect their authentic Indian arts/crafts. He thanked the committee and those who testified supporting HB 348. Urged committee support for HB 348.

HEARING ON HB 105

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE LINDA NELSON, House District 19, presented HB 105. which provides for transfer of tenure teacher between teaching and administration.

Many Montana schools are facing tough financial times because of declining enrollment/decreasing caps. Somewhere along the line school boards have to make some hard choices to make the best use of their tax dollars which might involve eliminating an administrative position. This tenured administrative person

would have two choices: (1) Look for another administrative position; or (2) take a teaching job within the system. The teaching position could either be an open position or this person could "bump" a non-tenure teacher.

Here is the problem: Current law states that a tenure teacher will receive the same salary from year to year--that they will not have to take a cut. The tenured administrative person is considered a tenure teacher so now the school board finds that they must pay \$10 - 20,000 more per year for the administrator than the teacher he is replacing. Not judicious use of the taxpayers' money and not fair to other teachers on staff who may be doing the same work for far less pay.

This bill allows the administrative person to take the teaching position from all of his years as tenure and to fit into the salary schedule of his school system as though he had been teaching all along. It may not be kind from the administrative person's standpoint but it makes sense. Other teachers will not be resentful, taxpayers will still support the levy and the administrative person will still have a salaried position.

The committee amended bill to include grandfather clause. Current administrators will not be covered under this bill so they will remain just as they are. Representative Nelson said that while she was not real satisfied with the amendment, she thought that this is a good bill and said that if this is what it takes to move the bill forward, then she accepted the amendment.

She said that in the future if someone is going into an administrative position, they might as well know up front that they will be paid as an administrator but if they go into a teaching position, they will paid a teacher's salary. There is a difference.

Proponents Testimony:

REPRESENTATIVE BERV KIMBERLEY, House District 90, testified in support of HB 105.

He does not feel that the bill is vindictive toward administrators and he would not support the bill without the grandfather clause amendment.

He said that he felt a person should get paid for the job he does and in the school business if you take on any additional responsibility, you usually get compensated for it. You get a stipend. But when you no longer have that responsibility, you give up that stipend and teachers accept that. If an administrator is teaching, that person should receive a classroom teacher's salary.

BRUCE MOERER, Montana School Board Association.

Current Supreme Court interpretation of the tenure law requires a school district to continue paying an administrator the salary he was receiving as an administrator if that person goes into a classroom teaching position. Also, the administrator must be offered the next open administrative position for which he is qualified. (Supreme Court ruling involving Billings School District case, 1983). Exhibits 1, 2.

Further Proponents testifying in support of HB 105:

REPRESENTATIVE WILBUR SPRING, House District 77.

DEBRA M. KEHR, Helena School Trustees

STEVE HENRY, MEA

DENNIS CARLSON, Huntley Project EA

JERRY RUKAVIANI, Great Falls

WANDA GRINDE, Canyon Creek EA

TRISHA McMORRIS, Glasgow EA

KYLE BOYCE, Missoula CHSE

BOBBIE ANTONSON, Billings EA

Opponents testimony:

LORAN FRAZIER, School Associations of Montana.

Speaker said that HB 105 unfairly penalizes administrators who are usually on a 10-11 month salary contract. It causes an economic hardship. The bill needs to be further defined. Felt it might encourage school boards to restructure when it was not necessary.

Other proponents:

DARRELL RUDE, SAM

GREG GEOFF, MAEMSP

JO SWAIN, BAESP

Questions from committee members:

SENATOR WATERMAN to Bruce Moerer for a definition of tenure. Bruce Moerer answered saying tenure is acquired in fourth consecutive teaching contract with that district. Tenure protects the teacher or administrator basically in two ways: Law says that salary can't be reduced and there has to be same comparable position. Supreme Court said that teaching is a comparable position to administration for purposes of tenure protection. You can assign them as a teacher but you can't reduce the salary received as an administrator.

Question: Cite an instance when you could reduce economic tenure for a teacher. Answer: Could not be done unless there was a reduction in force.

Question: Define what the bill means when it says "when economic conditions of a district require a reduction in administrative

staff".

Answer: Teachers might say that they need more salary and cut expenditures in other areas such as repair, remodeling, textbooks, etc., There is always that area where the trustees have authority under law to make those judgements as to what has to come out of the budget and what stays and this continues to give the trustees that authority to make those decisions. If their decision is to reduce administrative staff instead of reducing teaching staff, they still have that authority. No specific definition. Restructuring decisions would be made by the school board. He said that larger districts with central office administrative staff are going to be able to make use of this much more than districts with a principal in each building but no central administrative staff.

Question: If the district does not have a contract that guarantees that administrator seniority and they're restructuring because of decline in enrollment, they may be eliminating some positions for administrators and teachers so there is a probability that the administrator is going to go to the bottom of the teaching seniority list and would be the first to go even though they have tenure.

Answer: That is correct and that would happen now if there is a decline of 10 percent in enrollment, you cut 10 percent of administration and teachers, at this time the administrators would go to the bottom of the seniority list and could be terminated without this bill.

Question: Will it take three years to get through the tenure process so this bill could be applicable? How many instances of this are there in this state?

Answer: That is correct that it would take three years but this bill is a start. He didn't think that there were very many instances of this in this state and one reason is because this bill doesn't exist.

SENATOR PINSONEAULT asked if HB 105 is comparable to other state legislation.

Bruce Moerer said that he had not researched other states on this. Some states don't give tenure to administrators at all and some have a separate tenure protection for administrators.

SENATOR HAMMOND said that he thinks administrators are often moved into the classroom and are not given an opportunity to go back into an administrator's position even when one is available.

Bruce Moerer said if that happens, it is against Supreme Court ruling and the teacher should take the matter to court. Under the ruling, a former administrator must be given preference for the next administrative opening and this bill keeps that

protection.

SENATOR FRITZ asked Darrell Rude asked if he knew of any teachers that make more money than administrators. Mr. Rude said yes that there are teachers that make more money per day than administrators. Senator Fritz then asked why a school would identify good teachers and encourage them to become administrators. Why would a valuable teacher be taken from the classroom and encouraged to become an administrator.

Mr. Rude said administrators want good people to follow. He said that they had been excellent teachers and as we turn over these people into the next century, we want excellent people to replace us. We know that those people will be the next leaders. We don't want to recruit the poor teachers. A classroom teacher might make a positive impact on 20-30 students while an administrator could make a positive impact on hundreds of students.

SENATOR PINSONEAULT said that he did not agree that a good teacher makes a good administrator and cited instances.

CHAIRMAN BLAYLOCK quoted the handout as saying, "HB 105 does not allow an administrator to be assigned to the classroom instead of being terminated if the district is not satisfied with the administrator's performance". Do we assume that in this case the board making this decision is telling the truth. Could they be moved into a classroom situation for other reasons other than economic.

BRUCE MOERER said that there is always the opportunity for abuse of any system by anybody who insists upon doing it. If someone did that, they would have to close the administrative positions.

Mr. Moerer said when we advise people on how to do a reduction in force, we say that the first thing you do is budget work to determine priorities. Get rid of programs and positions first; then determine who the people are because there will be lateral moves, "bumping" depending on certification.

Closing by sponsor:

REPRESENTATIVE NELSON thanked all of the people who came whether they were proponents or opponents and members of committee for a good hearing. She said that it was a very emotional issue and she had utmost respect for all concerned. As a school board member, she said that she had made decisions that didn't make her feel good but school boards are not there to provide financial security. The bottom line of this bill is accountability to the taxpayer in providing the best use of tax dollars to educate students.

All this bill really addresses is whether or not an administrator

in a teaching position should be paid a teacher's salary or an administrator's salary. The salary is the issue in HB 105. Salary cuts are not unique in Montana and taxpayers have the right to judicious use of their tax dollars. To defeat this bill is to do nothing.

HEARING ON HB 462

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE RAY PECK, House District 15, revising calculation of ANB for certain schools of a district. The sponsor said that this bill was put into law three sessions ago. OPI started to implement this bill and the attorney general said that the language of the bill was not in keeping with intent. (Page 3, Line 23). The average number of regular and full time pupils must be based on the aggregate of all regular enrolled full time pupils attending the schools in the district except that when a school of a district is located more than three miles beyond the incorporated limits of a city or town or from another school of the district.

That created a situation that if you had a three mile separation of school within a city boundary, you operated and made your budget based on two units. For example, if you had 200 students in those two schools, you would get about \$343,800 in one school. If you had them in two different buildings, you would get an additional \$35,800 because of the difference on the schedules. Pupils calculated separately. The smaller the unit, the higher the rate. Budget of some schools would be increased. I know it is difficult for some of the schools that have been hit but, in fairness, it seems that the legislation does make sense.

In reference to the school districts that are going to be hit by this, the amendment allows for a five year phase out.

Sponsor said that he was not particularly happy with amendment but said if the funds will be cut, it is better than losing them all at once. Also spoke of the three mile limitation; that it is not a great distance to be considered. Trying to create a level playing field in terms of funding and fairness to schools.

Proponents' Testimony:

JIM SMITH, Superintendent of Schools, Consolidated District of Rudyard and Hinman.

Gave chart committee which explains their situation (Exhibit 3). They are six communities/school systems within communities of Havre and Chester. Now three consolidated school districts within range of 70 miles. Our district is in center; one on either side and we have made some real difficult financial choices closing one building five years ago and making other changes.

In that process we forfeited the bonus funding that we were receiving. We had to make the choice in the direction of fairness to the taxpayer. We have trustees who believe that whether the money is coming from the foundation program or voted from the school district that it is still their tax dollars. If they can make best use of it by operating in one facility, then that is their obligation to do so.

The difference is in districts on either side. The other two districts did not have to make that choice. As you compare the amount of dollars they receive, you will find that the district to the east of us has 79 ANB and receives more foundation program dollars than we receive on 121. We don't feel that is equitable.

The situation that exists basically does two things: There are 35 of our 105 Class C schools that are receiving bonus funding for one or two purposes. One would be that they are unincorporated towns and so if they are operating separate programs in separate buildings, separate elementaries and separate high schools and they are in an unincorporated town, then they receive the bonus.

If the towns were corporated, the schools would receive no bonus. I have a little problem with this. There can be two exact educational configurations. If they are in an incorporated town, they don't receive the bonus. If they are in an unincorporated town, they do.

The speaker also spoke of the three mile limit. Felt that might have been a consolidation incentive but I have a problem with that because there are consolidation incentives outlined in Montana State law in 20-6401. It provides the first and second class districts receiving \$450 additional per student in foundation program and third class districts receive \$750 per student additional per year. An adequate consolidation bonus and incentive.

Speaker said that he failed to see why over the last ten years my neighbors on both sides of me have received some additional million dollars in foundation program monies when they have the same number of students, same economic base, the same kind of people operating the same program. Unfair burden on my taxpayers and in reality, they also pay to the districts on either side. This stand does not make me a popular person but I am here to say this is the case for 35 districts out of 105. If you think that I couldn't round up some more proponents to this bill, I would charge that I could probably bring you about 75.

Speaker talked about budget caps: My good neighbors to the west have the same number of students that I have; they have a cap this year of \$634,505 in their elementary school. I have a cap of 560,000 in my elementary school. Same number of kids; same size school district. Their cap is larger. Their budget is

\$634,000 and mine is \$482,000. We are here to say that we have a problem with the three mile limit. I guess the history of it might relate it to being the transportation mileage and maybe there should be some transportation entitlement but I don't see that it is fair; that it should relate to an additional \$100,000 in foundation program funding. If this can be adjusted or amended in some form, we certainly are proponents and would support the legislation.

Further proponents:

STEVE GAUB, Superintendent of Schools, Charlo.

Reluctant proponent. Charlo is one of the 35 schools that will be hit pretty hard by this bill. Would lose \$115,000 out of elementary general fund. I only support this bill because of the phase out amendment. If we are losing this money, it would help if it is over a five year period. Don't know the financial impact and caps will be affected. The result will be our inability to pay our teachers, cut in teachers and other expenditures will be reduced.

SUSAN SCHENKLE, Director, Business Services for Frenchtown Schools.

Support HB 462 only as amended. Will lose about \$130,000 in foundation program to the Frenchtown Elementary School District in 1992 fiscal year. The reduction of foundation program funding will reflect the cutting of current programs and teachers.

JIM JOLENE, Lolo School District.

Lolo School District currently has about 675 students and we have a district of about three square miles. Not an incorporated city. We have very high taxes compared to the surrounding area in Missoula County. We will lose about \$180,000 with this bill over a period of five years.

ROD OLSON, Superintendent of Schools, Reed Point.
BRUCE MOERER, MSBA

Support the bill as amended.

Opponents' Testimony:

BILL MCKAY, Roscoe. Trustee of District 52. (Absarokee)

District will lose \$140,000 under this bill. I understand what the sponsor is doing and sympathize with his efforts in trying to come up with a level playing field. I hope that he understands my duty as a trustee and that is to garner all of the money I can for my school district. Said education in this state is in enough trouble and equalization should be "up". Please don't take away the funds that we have in smaller school districts.

Not everybody here built separate facilities just to take advantage of this loophole. Some of us run separate facilities because we have to. The Absarokee School District is not within a three mile limit - 14 miles from incorporated town.

Questions From Committee Members:

SENATOR WATERMAN to Representative Peck:

If they took out Line 2-6 on Page 4, would that eliminate the three mile statute. He said was the amendment that deals with unincorporated territory and corrects the bill.

Question: How the three mile limit could be corrected and what impact it would have on the bill, saying that she was assuming there was some rational reason for declaring "isolated" at twenty miles so why not use that figure instead of three.

Answer: It was based on a three mile transportation idea. He didn't think there is any additional cost associated with three miles; perhaps 15-20 - some costs. If number higher, could be justified.

Question: What happens if you take out mileage.

Answer: Some kind of rational reason needed for changing the mileage.

SENATOR FRITZ: You had proponents here who announced that they were willing to give up \$100,000 - \$140,000 a year for their districts as long as it were phased out over a five year period. Why are they so selfless? Why don't they oppose this bill and refuse to give up any money?

Representative Peck said that he thought the proponents were saying if they must give up money, it is better to have five years to phase out than giving it up in one year. When the bill came in, there was no phasing out and they saw that it was a possibility that they would lose it all in one year. When the committee amended it to phase out over five years, they thought that was a lot better than it had been written originally.

SENATOR HAMMOND: Are there some larger schools that are three miles apart? Representative Peck said yes he did not deal with that sufficiently in his opening statement; if you read starting on Line 21 - the original language is that if a school is located more than 3 miles beyond the incorporated limits of city or town or from another school in the district. How do you interpret that language? If they are three miles or more from any, can they qualify? He said he wondered if some of the larger districts with more money may have built schools with that in mind so they could qualify for funds.

Closing by Sponsor:

REPRESENTATIVE PECK closed hearing and thanked proponents for their support. New fiscal note given to committee.

HEARING ON HB 431

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE TED SCHYE, House District 18 presented HB 431 to increase teacher certification fees for research on teacher standards. Bill at request of the Board of Public Education and has been amended extensively.

Proponents' Testimony:

MARY SHEEHY-MOE, Representing the Certification, Standard and Practices Advisory Council. (created four years ago). Funded entirely by certificate holders. It is not taxpayer money that funds the council nor taxpayer money we are asking for now. The council was part of the mandate of the legislature that we develop a code of ethics for educators in Montana. That process is completed. In recent times we have developed standards for different learning in the state. Also made many recommendations on various subjects concerning education in the state. The problem is this: we were set up simply for operating and now we see that in order to do a good job, we need money for research including legal research for studies.

KATHLEEN HARRINGTON, CSPAC.

The bill originally was intended to take \$2.00 generated by certification fees and direct that to a special research fund and also add an increase in certification funds for that fund. The language allowing for this fund was stricken and the money now goes to the general fund. Need reserve fund since several of the projects will take more than one biennium to accomplish.

WAYNE BUCHANAN, Board of Public Education

Work of council has been extremely valuable. Wise move on the part of the legislature to create this council. It increases the credibility of the Board of Public Education. I hope that the senate will restore this money to the research fund.

Opponents' Testimony:

ERIC FEAVER, MEA.

In opposition only because HB 431 is a teacher tax which we will not support. We do support the previous testifying proponents and the council represented. If this committee can restore this bill to its original intent, we will support it.

The problem with the bill as it was written: is that \$2.00 of our license fee now comes out of our annual \$5.00 license fee and goes to the general fund. (\$58,000) It did increase the license fee \$1.00. \$5.00 license fee on an annual basis; \$3.00 goes to the council; \$2.00 to the general fund. This bill should have captured the \$2.00 that is going to the General Fund but now being sucked up by the general fund of this state that could appropriately apply to the interests of professionals in the education business. Urged committee to restore bill to original intent.

Questions From Committee Members:

SENATOR NATHE asked if they would consider leaving the \$2.00 in the general fund and having the extra \$1.00 for research since the general fund could not afford the loss. Mary Sheehy-Moe said the council would not be interested in that since it would not be enough for research.

Closing by Sponsor:

REPRESENTATIVE PECK closed hearing.

ADJOURNMENT

Adjournment At: 5:50 P. M.


SENATOR CHET BLAYLOCK, Chairman


BETSY CLARK, Secretary

CB/bc

Bruce Moerer
General Counsel



"Administration to the classroom"

Legal Corner

Although it is permissible to assign administrators to a classroom teaching position, it may not be advisable under the tenure laws and the Montana Supreme Court's interpretation of those laws.

What the Supreme Court has said is that, if a district determines that it must RIF (reduction in force) an administrative position, a tenured administrator with proper endorsements or qualifications, can bump a nontenured teacher. Massey v. Argenbright, et al., 683 P.2d 1332, 3 St.Rptr of Ed Law 142 (1984). The Court has further stated that when this happens, the teacher (former administrator) is entitled to be paid the administrative salary, plus future increases granted to administrators in the district, and is entitled to the next administrative opening if he or she is qualified. Sorlie v. School Dist. No. 2, 667 P.2d 400, 2 St.Rptr of Ed. Law 145 (1983).

In analyzing the situation, one must understand that administrators (except the superintendent) fall under the definition of "teacher."

"Teacher" means any person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by the district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher shall also include

any person for whom an emergency authorization of employment of such person has been issued under the provisions of 20-4-111, MCA." Section 20-1-101(18), MCA.

Therefore, administrators can obtain tenure under the teacher tenure law, just like a classroom teacher can.

Section 20-4-203, MCA provides that: "(1) Whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent or specialist, the teacher is considered to be reelected from year to year thereafter as a tenure teacher at the same salary and in the same or a comparable position of employment as that provided by the last executed contract with the teacher unless the trustees resolve by majority vote of their membership to terminate the services of the teacher in accordance with the provisions of 20-4-204.

(2) The tenure of a teacher with a district may not be impaired upon termination of services of the teacher if the following conditions exist:

(a) the tenure teacher is terminated because the financial condition of the district requires a reduction in the number of teachers employed; and

(b) continued employment rights are provided for in a collectively bargained contract of the district."

In fact, there is no difference between

tenure for administrators and teachers. There is also no difference among administrators, be they building principals or central office administrators. Upon the signing of their fourth consecutive contract with the district, "teachers" obtain tenure, regardless of whether they were classroom teachers or administrators before or after obtaining tenure. Teachers retain tenure until their employment is terminated, unless they are recalled pursuant to the terms of a collective bargaining agreement.

Let's look at the numbers. . .

What does this do to a school district that needs to RIF an administrative position because of a loss of enrollment or financial problems? Assume the tenured administrator makes \$40,000. Assume the administrator bumps a nontenured teacher who makes \$16,000. The salary savings realized by the district is only \$16,000 since the administrator must still be paid \$40,000. In addition, morale problems become serious when one teacher makes substantially more than another for doing the same job. Finally, the former administrator is also paid in violation of the salary schedule of the collective bargaining agreement. With all of these problems facing the district, it may not be worth only \$16,000 to eliminate the administrative position.

A second practical effect is evident when a district goes to fill an administrative opening. A district has more incentive to hire from outside the district to avoid putting a tenured teacher in that position. The district then has three nontenure years to evaluate the person's job performance as an administrator. Additionally, in the event of an RIF during those first three years, the person can be assigned to the classroom at a classroom teacher's salary because they have not yet obtained tenure.

The Montana School Boards Association
(continued on page 6)

Exhibit 1
3/2/91
HB 105

Administration to the classroom

(continued from page 4)

tion is preparing legislation to allow a tenured administrator to be assigned to the classroom at a classroom teacher's salary. This will avoid the problems discussed above. If we assume the administrator will make \$26,000 at the correct place on the salary schedule, the district would save \$30,000 instead of \$16,000. Other classroom teachers would then be more receptive to the situation since the pay would be equitable and the salary would not be in conflict with the collective bargaining agreement. This change in the law would give districts a more viable option in administrative assignments.

Obviously, administrators are opposed to this (they take a cut in pay), but one needs to carefully evaluate their stated objections. One fear they have is that the law will be circumvented and poor administrators will be assigned to the classroom instead of

terminated for cause. They say that somehow they will lose their due process rights to appeal the school board's decision. This cannot happen, because such an assignment would be appealed to the county superintendent as a school controversy under Section 20-3-201, MCA, and a hearing would be held. If a district should attempt to circumvent the law, they would be caught by the appeal process.

Another fear is that under the proposed law, administrators who are put back in the classroom will lose their seniority under the collective bargaining contract, and will be the first teachers laid off in an RIF. That may happen, but the proposed law does not cause this. This happens now. Right now an administrator can be assigned to the classroom. Right now some teacher collective bargaining agreements require tenured teachers with the least seniority to be laid

off first. Some of these agreements do not allow seniority for years of service as an administrator. Therefore, under the current law, an administrator may be the first tenured teacher laid off. This is a fact of life now, and would continue to be a fact of life if the proposed law is enacted by the legislature.

Even though legislative decisions are public policy decisions, they must be based on a correct understanding of the law. School trustees are responsible for running the school district in a fiscally sound manner. The present law decreases the options available to trustees in cases where administrative positions need to be reduced. The legislature must decide, as a matter of public policy, how many options are available to school trustees in these tight economic times.

Exhibit 1-A

3/8/91

HB 105



One South Montana Ave.
Helena, Montana 59601
Telephone: 406/442-2180
FAX 406/442-2194

Robert L. Anderson, Executive Director

—MONTANA SCHOOL BOARDS ASSOCIATION—

Ex. 2
3/2/91
HB 105

TO: Representative Linda Nelson
FROM: Bruce W. Moerer, MSBA
DATE: February 1, 1991
RE: Fact Sheet on HB 105 as amended

A. Problem:

Current law requires a school district to continue to pay a former administrator who is transferred to the classroom for economic reasons at the higher administrative salary level, give them continuing administrative increases, and give them the next administrative position for which they are qualified.

B. Reason: Definition of Tenure:

1. Administrators (except Superintendents) gain tenure just like classroom teachers by the offer and acceptance of their fourth consecutive contract (prior years can be either teaching or administrative positions).
§ 20-4-203, MCA.
2. Tenure prohibits salary reductions.
3. A tenured teacher (or administrator) can bump a nontenured teacher if his/her position is eliminated and he/she is endorsed to teach the subject being taught by the nontenured teacher.

C. HB 105 Solution:

Allows a school district to transfer an administrator to a classroom teaching position at a classroom teacher's salary if economic conditions of the district require a reduction in administrative staff.

The amendment grandfathers in employees currently receiving administrative salaries. Only new administrators will be affected.

D. HB 105 does:

1. provide due process protection for the administrator.

Exhibit 2.

Blue Sky Schools HB 462
Position Statement: School Funding Bonuses
for Limited Schools

EX. 3
3/8/91
HB 462

Prepared by: Supt. Jim Smith

Current Status and Problem:

Thirty-some schools receive bonus funding by aggregating A.N.B. because they operate in separate campuses over three miles apart in distance. They receive foundation monies for jr. high students from the high school schedules. I believe the original intent related a need for additional monies to operate another building? Additional staff? I'm not sure.

In the past ten years our closest neighbors, consolidated districts like us, have received thousands of more foundation program dollars than we even though like numbers of students exist. I fail to see how this year after year bonus funding can be anything but smacking in the face of equity. We will support consolidation bonuses to encourage combining programs, but believe like the transportation bonuses, they should be phased out over a few years. The Blue Sky school district "bit the bullet" and closed one facility in an effort to provide tax relief both at the state and local level. The discomfort to our Hingham community and loss of space is a tough pill to swallow when you consider now it appears we could move back in for nothing or even extra funding through this foundation program loop-hole. THESE FOUNDATION PROGRAM BONUS DOLLARS GIVEN TO THIRTY PLUS SCHOOLS MUST AMOUNT TO A FAIR VALUE IF JUST THESE TWO SMALL SCHOOLS HAVE GOTTEN OVER \$300,000 EXTRA IN THE PAST TWO YEARS. If there is a goal toward equity in school funding this sort of pirating of the foundation program needs closer examination.

We support the elimination of these sort of funding loop-holes which reward districts for efforts which show no educationally relevant service.

FOUNDATION PROGRAM COMPARISONS RELATING TO HB 462

School	A.N.B.	FoundProg	TotalBudg	TotalMils	MilsVote
90-91					
BlueSkyEle	121	280087	482729	104.13	18.91
K-G Elem.	79	279011	397338	111.17	2.26
J-I Elem.	137	390416	634504	77.81	29.74
89-90					
BlueSkyEle	112	179026	563677	110.37	56.35
K-G Elem	78	189612	393073	86.87	30.2
J-I Elem	124	247990	541000	70.41	29.74

* All of the total budget figures above relate General Fund and Comprehensive Insurance budget totals.

THESE DISTRICTS HAVE APPROXIMATELY COMMON STATUS IN:

- *Taxable evaluation
- *Local economic base
- *population base
- *Educational Programs
- *Educational History (Consolidations)
- *Instructional Salaries

Exhibit 3

Exhibit 4 was not transmitted with the minutes.

Ex. 5
3-8-91
HB 431

Testimony on HB 431

The Certification Standards and Practices Advisory Council was created by the 1987 Legislature. It is authorized to study and make recommendations to the Board of Public Education on certification issues. These include:

1. teacher, administrator, and specialist certification standards, including precertification training and education requirements and certification renewal requirements and procedures;
2. the status and efficacy of approved teacher education programs in Montana;
3. policies related to the denial, suspension, and revocation of teaching certification and the appeals process.

The Council consists of seven members appointed by a majority vote of the Board of Public Education. Its membership includes four teachers engaged in classroom teaching in Montana; one faculty member from an approved teacher education program; one person employed as a certified administrator in Montana; and one Montana school district trustee.

The Council is endorsed and supported by the state's educational community and its operation is made possible by teacher certification fees. Those fees are currently five dollars per year. [Certification is granted for five years so the teachers pay a total of twenty-five dollars to be certified.] The Council is now granted three dollars from the five dollar yearly fee for Council operating expenses. The other two dollars go to the general fund. This bill originally requested that those two dollars, plus a one dollar increase in the certification fee, be placed into a research fund that would be used by the Council for indepth research on certification issues. With this legislation, certification fees will be increased from \$5 to \$6 a year. The Council would like to see the total fee go to the Certification Advisory Council - three dollars for operating expenses and three dollars for research.

During the past three years the Council has researched and made recommendations on a number of major issues. A few of those issues are: distance learning policies for the accreditation standards, a Code of Ethics for Montana educators, a mentorship program for beginning teachers, alternative certification, and special education endorsement needs. The Council has held two forums, one on the use of the National Teachers Exam (NTE) and the other on renewal units for recertification.

The Council has found that certification issues are quite complex and at times requires more comprehensive research than its staff can provide. Currently, the Council has adopted a proposal to pilot a Beginning Teacher Assistance (Mentoring) Program. It has identified the need for further research on the NTE. Also, it may need to do further research on alternative certification, early childhood education, special education endorsements, reciprocity with other states and suspension, revocation and denial of teachers' certification. These projects will require funding beyond the Council's present budget.

At a time when educational professionals are being asked to respond quickly to modifications in our educational system, the Council offers educators the forum to examine these proposals with an eye to the whole system and not just a narrow segment of that system. The Council is asking this committee and the legislature to provide it with the tools to make reasoned and well researched recommendations for the teachers of Montana.

Exhibit 5

Professional Educators of Montana Code of Ethics

3/8/91

HB 431

Preamble

The professional conduct of every educator affects attitudes toward the profession and toward education. Aware of the importance of maintaining the confidence of students, parents, colleagues and the public, Montana educators strive to sustain the highest degree of ethical conduct.

Montana educators value the worth and dignity of every person and the pursuit of truth, knowledge and excellence. While the freedom to learn and the freedom to teach are essential to education in a democracy, educators in Montana balance these freedoms with their own adherence to this ethical code.

Members of the Profession of Education in Montana:

- *Make the well-being of students the fundamental value in all decisions and actions.*
- *Fulfill professional responsibilities with diligence and integrity.*
- *Protect the civil and human rights of students and colleagues.*
- *Know the policies, regulations, rules, and laws governing the professional conduct of educators.*
- *Pursue appropriate measures to change those policies, regulations, rules, and laws which are inconsistent with sound educational goals.*
- *Recognize parents and the public as integral parts of the school community, and encourage their involvement in education.*
- *Maintain professional standards and seek to improve the effectiveness of the profession.*
- *Exemplify and foster a philosophy of education which encourages a lifelong pursuit of learning.*

DATE

3-08-91

COMMITTEE ON

Education

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Jerry Macmillan SD#19/HO 38 1929 15th Ave S. Great Falls	Great Falls Educ. Assoc Montana Educ Assoc	HB#105	X	
John Stratton 802 W. 9th Laurel	Laurel Education Assoc	105	X	
Annette Belin 226 Laurmac La Laurel	Laurel Education Assoc.	HB 105	X	
Debra Wenger 53rd St. S.E. Cut Bank	Cut Bank Education Assoc. MEA	105	X	
Sharon Harris 220 Old Harder Rd Billings	Lockwood Education Association	HB 105	X	
Darrell Rud	MAEMSP & SAM	HB105		X
Greg CESTZ	MAEMSP	HB105		X
Joe J. J. J.	BAESP	HB105		X
Loran Franz	SAM	N.B. 65		X
Nepia McKinnis	Glasgow Ed Assoc			
Steve Henry	MEA	HB105	X	
Janda Grinde	Canyon Creek Ed	HB105	✓	
Alli & Eve	Miles City Ed Assn	HB105	✓	
Steve Gault	Chadron Schools # 71	HB462	✓	
Jim & Julie	Colo Schools # 7	HB462	✓	
Bob Olson	Reed Point School Dist. 99	HB462	✓	
Bobbie Antanson	Billings Education Assoc.	HB105	✓	
Dennis Carlson	Humbly Project Educ	105	✓	
Bob Dickerson	Great Falls Ed Assoc	105	✓	
Larry Love	" " " "	"	✓	
Patricia Link	Billings Ed. Assoc.	105	✓	
Bruce W. Meyer	SSHA	462 105	✓	
Mike Boyer	Missoula Co. High School Ed Assn	HB105	✓	
Jacki Lamb Marvin	MSLA Elem. Ed.	HB105	✓	
Kathleen Harrington	Certification Advisory Council	HB431	✓	
Wayne Buchanan	BPE	431	✓	

