

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION**

**Call to Order:** By SENATOR CHET BLAYLOCK, on March 13, 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:** Andrea Merrill, (Legislative Council).

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

**Announcements/Discussion:** Chairman Blaylock introduced Claudette Morton, former Executive Secretary of the Board of Education. Ms. Morton was accompanied by a group of senior elementary education students from Western Montana College, Dillon, Montana. Each student gave his/her name and the town they were from. Members of committee and the students had some discussion regarding areas they represented, employment expectations, curriculums, etc.,

#### **HEARING ON HB 654**

#### **Presentation and Opening Statement by Sponsor:**

Representative Alvin Ellis, House District 84, presented HB 654, an act to eliminate health certificates to qualify for teacher certification. Representative Ellis said that the bill was requested by the governor's office and it wishes to do two things: (1) Make the statute agree with the case law which the Supreme Court mandated that you can no longer disqualify a

teacher because they are 70 years old; (2) Do away with requirement that teachers get a health certificate before they recertify every five years.

Sponsor pointed out that no one else has to have a health certificate in order to be employed. Wanted to inform committee that the requirement that a teacher have a test for tuberculosis and what happens as result of positive test; both under rule and are unchanged.

Proponents' Testimony:

Eric Feaver, Montana Education Association.

Speaker said requirement for teachers to have a bill of health was a nuisance; they cannot be denied their certificate without it. It is an employment not a certification circumstance. Very few insurance programs pay for this requirement.

Other proponents:

Wayne Buchanan, Board of Public Education.

Judith Gedrose, Chief, Preventative Health Services Bureau of the Department of Health and Environmental Sciences.

Questions From Committee Members:

SENATOR FRITZ said that he would assume there are no teachers out there with tuberculosis. How many folks are there over 70 years of age are wanting to continue teaching or who wish to apply for a teaching job?

REPRESENTATIVE ELLIS said that he did not have any statistical information on this. He said that he suspected it might be rather rare but there might be some who would be interested. He said that he remembered one teacher in Carbon County who reached age 70 and was disappointed that she could not continue teaching.

CHAIRMAN BLAYLOCK said that he thought there might be some over 70 years of age who would apply and do a very good job.

Closing by Sponsor:

REPRESENTATIVE ELLIS waived the right to close.

EXECUTIVE ACTION ON HB 654

Motion:

SENATOR FRITZ made a motion DO CONCUR in HB 654. Vote was unanimous. MOTION CARRIED.

Carrier: Senator Hammond.

HEARING ON HB 507Presentation and Opening Statement by Sponsor:

REPRESENTATIVE JOHN COBB, House District 42, an act providing for exhaustion of administrative remedies condition of school lawsuits. Request for law to be changed to conform to supreme court rulings. The law says any matters arising with a trustee or teacher must go through office of county superintendent first; and follow that administrative procedure. Supreme Court in ruling said that you must exhaust all administrative remedies except the ones listed on Page 2, Lines 14-18. This bill would just put into law exceptions so it would not be necessary to go through administrative remedies on the three listed exceptions.

No proponents or opponents.

Questions From Committee Members:

LOREN FRAZIER asked for explanations of Sections 2: a, b and c.

REPRESENTATIVE COBB said that the Supreme Court did not offer explanation. The court only said that there are exceptions that do not have to be considered.

PHIL CAMPBELL said examples might be a state agency that has jurisdiction and would have a wage claim that someone might want to bring; there is specified a procedure through the Department of Labor whereby one could go right into District Court on a wage claim provision and that would take care of state agency or specific statutes that govern the appeal process. There is a statute that already provides for an appeal provision when you can use that statute. If not, you would come back to administrative procedures.

SENATOR PINSONEAULT said that he thought an example of C would be if a school board has a procedure for termination; instead of following the process, they might call the teacher in and tell him/her that they are terminated. They are not granted authority by their own rules to do that.

Closing by Sponsor:

REPRESENTATIVE COBB closed hearing.

EXECUTIVE ACTION ON HB 507Motion and vote:

SENATOR PINSONEAULT made a motion DO CONCUR in HB 507. Vote was unanimous. Motion carried.

Carrier - Senator Pinsoneault.

EXECUTIVE ACTION ON HB 347

Discussion by committee:

Senator Pinsoneault said that he was supportive of the bill but cautious.

Senator Hammond said that he felt that HB 347 was the strongest bill on nepotism that they had seen and had good safeguards.

Senator Yellowtail said that he understood that the rule of nepotism caused serious problems in all small communities but he said that he knows there is a possibility for abuse; that there is on-going abuse and could see trouble.

Motion and Vote:

SENATOR HAMMOND made a motion DO CONCUR in HB 347. Eight voted aye; one voted no. (Yellowtail) Motion carried.


Carrier: Senator Hammond.

ADJOURNMENT

Adjournment At: 5:00 P. M.,



SENATOR CHET BLAYLOCK, Chairman



BETSY CLARK, Secretary

CB/bc

DATE \_\_\_\_\_

3-13-91

COMMITTEE ON

## Education

Please sign.

# VISITORS' REGISTER

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