

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By, Bill Yellowtail, Chair, on January 7, 1993,  
at 10:04 a.m.

**ROLL CALL**

**Members Present:**

Sen. Bill Yellowtail, Chair (D)  
Sen. Steve Doherty, Vice Chair (D)  
Sen. Sue Bartlett (D)  
Sen. Chet Blaylock (D)  
Sen. Bob Brown (R)  
Sen. Bruce Crippen (R)  
Sen. Eve Franklin (D)  
Sen. Mike Halligan (D)  
Sen. John Harp (R)  
Sen. David Rye (R)

**Members Excused:** Sen. Grosfield, Sen. Towe

**Members Absent:** NONE

**Staff Present:** Valencia Lane, Legislative Council  
Rebecca Court, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 19  
Executive Action: SB 14

**HEARING ON SB 19**

**Opening Statement by Sponsor:**

Senator Blaylock, District 43, opened by informing the Committee SB 19 had arisen because of a Supreme Court decision that if there is a collective bargaining agreement and there has been a discharge it should go through that process, rather than going to court. SB 19 is a matter of cleaning up language and making sure that people, largely classified employees in our teaching staff, have a method by which they can obtain arbitration for their cause.

**Proponents' Testimony:**

Phil Campbell, Montana Education Association, stated the intent

of SB 19 is to make a minor change in the intent of the existing law. The intent of the wrongful discharge act is to exempt people who are covered by the collective bargaining agreement, with the understanding that all collective bargaining agreements have just cause provisions and the agreement procedure ends in binding arbitration.

Teri Minow, Montana Federation of Teachers, stated their support of SB 19.

**Opponents' Testimony:**

Bruce Moerer, Montana School Board Association, stated the school board is mainly affected by SB 19. Many schools have worked to keep just cause or arbitration out of their contracts. When laws change it changes the strengths of the parties in terms of what things are worth at the collective bargaining table. The Montana School Board Association feels that negotiations should be settled at the table and not be impacted with other legislation.

Gary Spaeth, Liability Coalition, related background to SB 19. The Liability Coalition supported the bill back in 1987 and it passed. The exemption was not originally in the bill as it was proposed, but put in the bill at the request of organized labor who felt it was important not to get involved in contract negotiations.

Gary Spaeth also expressed his support for SB 19 by recognizing that the wrongful discharge act provides important protection for employees.

**Questions From Committee Members and Responses:**

Senator Halligan asked Phil Campbell to expand on testimony regarding just cause and final and binding agreements. Mr. Campbell responded even if contracts have a just cause agreement in them, the grievance procedure and the collective bargaining agreement sometimes end with the school board. The school board is the last step of the grievance procedure to determine whether actions were fair and equitable. The provision is necessary to have a third party make the determination whether the employer followed the provisions of the contract.

Senator Halligan questioned Mr. Moerer's comments about the relative strengths of the parties and the bargaining table being off balance. Mr. Campbell replied that the Montana School Board Associations point of view is that they do not want arbitration in the contracts. Under SB 19 school boards do not have to have arbitration in their contracts, it is just that the employees are not exempt from the wrongful discharge act if they do not have such provisions.

Senator Crippen inquired why Bruce Moerer was objecting. Mr. Moerer replied that binding arbitration is an issue for collective bargaining table between schools and the union. If

the union wants binding arbitration there is a certain value that a school district will place in reference to what they want in return, what they are willing to give, or what they want in exchange for giving up binding arbitration. When the laws change it changes the relative worth table of binding arbitrations. Districts may have given up more salary, for example, to keep arbitration out of their contract.

Senator Crippen asked Mr. Moerer if SB 19 is passed, would it create more litigation for bargaining agreements that don't have just cause or binding arbitration. Mr. Moerer could not speculate on this matter.

Senator Bartlett asked Mr. Moerer whether there would be any affect if SB 19 passed on the provision provides for an election of remedies. Either a discharged employee could go through the grievance procedure to final and binding arbitration, which is already in the contract, or elect to go to court and use union resources for representation in court. Mr. Moerer does not believe the election of remedies clause would change the impact of the statute.

**Closing by Sponsor:**

Senator Blaylock closed by saying if the discharged employee can only appeal to the superintendent of the school, and if turned down, appeal to the school board, who will most likely follow the recommendation of the superintendent, that would be the end for the employee. SB 19 would correct this situation.

**EXECUTIVE ACTION ON SB 14**

**Motion:** Senator Halligan moved SB 14 DO PASS AS AMENDED.

**Discussion:**

Valencia Lane, Legislative Council, stated as a matter of public policy the Committee may want to change the description of firearms in SB 14. When SB 14 was drafted a description of firearms was "being loaded with powder and lead" which covered the kinds of firearms that would be used.

Chair Yellowtail asked if the Committee wanted to extend SB 14 to involve the definition of what a firearm is. Senator Halligan stated it is beyond the intent of SB 14 to try to define firearms. Valencia Lane stated there is not a generic definition of firearms in Title 45, but there is a definition that they are "loaded with powder and lead."

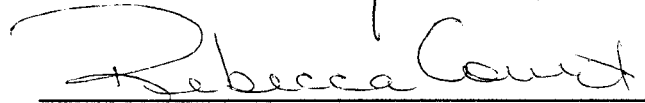
Senator Halligan stated SB 14 should pass the way it stands.

**Vote:** Motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 10:30 a.m.

  
SEN. BILL YELLOWTAIL, Chair

  
REBECCA COURT, Secretary

BY/rc

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 7, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 14 (first reading copy -- white), respectfully report that Senate Bill No. 14 be amended as follows and as so amended do pass.

Signed: Wm Yellowtail  
William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, line 7.

Strike: "A PERSON"

Insert: "AN ADULT"

2. Page 1, line 20.

Strike: "person"

Insert: "adult"

-END-

ADN Amd. Coord.  
— Sec. of Senate

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# ROLL CALL

SENATE COMMITTEE

Judiciary

DATE 1-7-92

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield			X
Senator Halligan	X		
Senator Harp	X		
Senator Towe			X
Senator Bartlett	X		
<del>Senator Blaylock</del>			
Senator Blaylock	X		
Senator Rye	X		
Franklin	X		
Kane	X		

FC8

Attach to each day's minutes

DATE January 7, 1992

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 19

Name	Representing	Bill No.	Check One	
			Support	Oppose
Bruce Goerz	MSBA	SB 19		X
Don Waldron	MREA	SB 19		X
John Sullivan	MDTL			
Jim Meyer	SUF	SB 19		/
Kathy Simpson	SUF	SB 19		/
Terry Minow	UT Fed. of Teachers	SB 19	X	
Steve Spacht	Liability Coalition	SB 19		X
Mike Harrington	MPC	SB 19		

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY