

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN JOAN ANDERSEN**, on January 15, 2003 at 3:00 P.M., in Room 102 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Joan Andersen, Chairman (R)  
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)  
Rep. Larry Lehman, Vice Chairman (R)  
Rep. Norman Ballantyne (D)  
Rep. Gary Branae (D)  
Rep. Nancy Fritz (D)  
Rep. Carol Gibson (D)  
Rep. Bob Lake (R)  
Rep. Pat Wagman (R)

**Members Excused:** Rep. Norma Bixby (D)

**Members Absent:** Rep. Verdell Jackson (R)  
Rep. Bob Lawson (R)  
Rep. Joe McKenney (R)  
Rep. Clarice Schrupf (R)

**Staff Present:** Mari Prewett, Committee Secretary  
Eddie McClure, Legislative Branch

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 78, 1/3/2003 and HB 153,  
1/7/2003  
Executive Action: HB 23, HB 24, HB 60, HB 78, HB  
107, HB 153

Immediately following Roll Call **REPRESENTATIVES JACKSON, LAWSON, MCKENNEY** and **SCHRUMPF** arrived at the Hearing.

HEARING ON HB 78

**Sponsor:** REPRESENTATIVE GARY BRANAE, HD 17, BILLINGS

Opening Statement by Sponsor:

**REP. GARY BRANAE**, stated that this a fairly simple bill. It is a bill transferring authority for approving the conduct of school on Saturdays from the Superintendent of Public Instruction to the School District Trustees and it amends Sections 20-1-303, 20-3-106 and 20-3-324 of the Montana Codes Annotated. The bill is presented so that Saturday school can be held to makeup for days missed because of school closures.

Proponents' Testimony:

**Jeff Walden, Chief Legal Counsel, Office of Public Instruction (OPI)**, stated that the Office of Public Instruction supports this bill as it simplifies the process of approving Saturday school. He further stated that the Superintendent of Public Instruction does not need to be the person to approve Saturday school. The Trustees are in a better position to know what needs to be done at their schools.

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 8.2}*

Opponents' Testimony: None

Informational Witnesses: None

Questions from Committee Members and Responses:

**REP. JACKSON** asked **REP. BRANAE** if there were other ways to make up time. He further asked could the schools add hours to a day as a way to make up time. **REP. BRANAE** replied that there are various ways in which to make up lost school days. One of these ways would be to extend the school year. However, most people seem to be in favor of Saturday school and it would be up to the Trustees to decide the best way to make up the lost school days.

**REP. JACKSON** asked **Jeff Weldon** from **OPI** if the schools would have the flexibility to extend the school year. **Mr. Weldon** replied that just adding hours to each day would not be enough, but the schools could extend the school year. He further stated that attending school on Sundays is prohibited.

**REP. ANDERSEN** asked **REP. BRANAE** if this bill had an effective date. This questions was answered by **Mr. Weldon** who stated that it did not have an effective date. **Mr. Weldon** requested that this bill be amended to add the effective date of, immediately upon passage.

**Closing by Sponsor:**

**REP. BRANAE** stated that this bill will increase local control and make the school systems more efficient.

*{Tape: 1; Side: A; Approx. Time Counter: 8.2 - 14}*

**HEARING ON HB 153**

**Sponsor:** **REP. NORMAN BALLANTYNE, HD 86, VALIER**

**Opening Statement by Sponsor:**

**REP. NORMAN BALLANTYNE**, stated that this bill is an act allowing an employee of a state or local educational agency that is not providing educational services to a child with a disability to serve as a surrogate parent for that child. Federal law requires states to implement procedures to protect the rights of the child when the whereabouts of the child's parents are not known. When the whereabouts of the child's parents are not known the state then has to seek out a surrogate parent to protect the rights of the child. **REP. BALLANTYNE** stated that under Montana law the school district must find within itself some type of a member to act as the surrogate parent or as an advocate for the child. In the past that surrogate could not come from the local school district. He further stated that especially in smaller schools this presented a problem. **REP. BALLANTYNE** stated that this bill would allow the state and schools to seek that surrogate or advocate in adjoining or neighboring school districts. This bill provides a safety net for the needy children so they do not fall through the cracks.

**Proponents' Testimony:**

**Jeff Weldon, Chief Legal Counsel, Office of Public Instruction**, spoke in support of HB 153. **Mr. Weldon** stated this bill would make it much easier to find a surrogate parent, such as a Special Education teacher, from the surrounding community.

*{Tape: 1; Side: A; Approx. Time Counter: 14 - 20.5}*

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. LAKE** asked **Jeff Weldon** if it would not be better to use the word advocate rather than surrogate. **Mr. Weldon** replied "Yes, however the word surrogate is used because the federal statute refers to surrogate parent." He further stated he does not believe they need to use that label.

**REP. LAKE** asked **Jeff Weldon** if it was a problem to find surrogate parents because of the term, surrogate. He further asked if as an amendment the word, advocate, should be added. **Jeff Weldon**, replied that the word, surrogate, may be problem as it is intimidating. He further stated that the real limitation or hesitation is that a lay person who knows nothing about special education is intimidated by the notation that they have to know about the child's disabilities. **Mr. Weldon** stated that a surrogate parent is a function rather than a title.

**REP. LAWSON** asked **Jeff Weldon**, why a foster parent could not act as the surrogate. **Mr. Weldon** replied that this could be construed as a conflict of interest. He further stated that state and federal laws state that the person who is appointed as the surrogate cannot have an interest that is a conflict. A foster parent who is receiving money to act as a foster parent would be seen as having a conflict. **Mr. Weldon** further stated that anyone that is even remotely related to the child would be the best choice.

**REP. LEHMAN** asked **Jeff Weldon** to briefly explain why an employee of the school district in which the child is a student cannot be the surrogate parent. **Jeff Weldon** replied that it is against federal statute. He further stated that the school district could employee could be construed to have a conflict and not serve in the best interest of the child.

***{Tape: 1; Side: A; Approx. Time Counter: 20.5 - 25.8}***

**Closing by Sponsor:**

**REP. BALLANTYNE** urged support of this bill as sometimes these children have no advocate to stand for them and these children deserve to have someone.

**CHAIRMAN ANDERSEN** asked if this bill should have an effective date. She then asked **REP. BALLANTYNE** if he wished to have an

amendment drafted so that it could have a closer effective date than October 1. **REP. BALLANTYNE** stated that would be the intent of the bill to put it in place with passage.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 1.6}*

**EXECUTIVE ACTION ON HB 60**

**Motion:** **REP. MCKENNEY** moved that **HB 60 DO PASS.**

**Discussion:**

**REP. MCKENNEY** stated that this is a simple bill. He further stated they needed to keep in mind that the Montana School for the Deaf and Blind is funded from the General Fund and not from local taxes. **REP. MCKENNEY** also stated that this school serves a special need and that the graduates go on to lead successful productive lives. He further stated that this school should be brought in line with the public schools.

**REP. LAKE** stated he supports this bill.

**Motion/Vote:** **REP. BALLANTYNE** moved that **HB 60 DO PASS. Motion carried 14-0.**

*{Tape: 1; Side: B; Approx. Time Counter: 1.6 - 4.7}*

**EXECUTIVE ACTION ON HB 23**

**Motion:** **REP. BALLANTYNE** moved that **HB 23 DO PASS.**

**Motion:** **REP. LAWSON** moved that **HB 23 BE AMENDED.**

**Discussion:**

**REP. LAWSON** stated that this amendment would just add an immediate effective date upon passage. See Exhibit 1 attached.

**EXHIBIT (edh08a01)**

**Motion/Vote:** **REP. BALLANTYNE** moved that **THE AMENDMENT TO HB 23 BE ACCEPTED. Motion carried 14-0.**

**Motion/Vote:** **REP. LAWSON** moved that **HB 23 DO PASS AS AMENDED. Motion carried 14-0.**

*{Tape: 1; Side: B; Approx. Time Counter: 4.7 - 9.6}*

**EXECUTIVE ACTION ON HB 24**

**Motion:** REP. BRANAE moved that HB 24 DO PASS.

**Discussion:**

CHAIRMAN ANDERSEN stated that there are three amendments that have been drafted for HB 24.

CHAIRMAN ANDERSEN moved that HER AMENDMENT TO HB 24 BE ACCEPTED.

**Discussion:**

The committee discussed the three amendments presented for content and disposition.

**EXHIBIT** (edh08a02)

**EXHIBIT** (edh08a03)

**EXHIBIT** (edh08a04)

**EXHIBIT** (edh08a05)

*{Tape: 1; Side: B; Approx. Time Counter: 9.6 - 25.6}*

**Vote:** Motion on CHAIRMAN ANDERSEN'S amendment to HB 24 carried 8-6 with REPS. GIBSON, BALLANTYNE, BRANAE, FRITZ, BIXBY and GALVIN-HALCRO voting no by roll call vote.

CHAIRMAN ANDERSON stated that there was one more amendment to HB 24 which needed to be addressed. She asked **Eddy McClure** to explain this amendment. **Eddy McClure** stated that on **SEN. RYAN'S** amendment there was a second amendment. This was a technical amendment which she had asked **SEN. RYAN** if she could put on his bill. **Ms. McClure** then referred to the committee to page 2, line 10 and 11 of the bill wherein they use the word approve, the subcommittee does not have the authority to approve legislation for the Board of Regents, by deleting the word approve the language would be identical to page one. This amendment would strike the words on page 2, lines 11 and 12 or proposed by the board of regents.

**Motion:** REP. WAGMAN moved that the 2ND AMENDMENT ON SEN. RYAN'S AMENDMENT TO HB 24 DO PASS.

**Vote:** Motion that 2ND AMENDMENT TO SEN. RYAN'S AMENDMENT DO PASS carried 14-0 by voice vote.

**Motion:** **REP. BRANAE** moved that **HB 24 DO PASS AS AMENDED.**

**Discussion:**

**REP. MCKENNEY** stated that he had mixed feelings about the bill. He further stated that he believes that the intent of the bill is positive but is not sure that it needs to be put into law. **REP. MCKENNEY** went on to say that the Local Education Interim Committee is a permanent committee and that committee has existing power to form subcommittees as it wishes. He further stated that he is concerned about the workload of Legislators during the interim period.

**REP. BRANAE** stated the workload issue was why they did not specify in the bill that the members of the subcommittee would have to be on the Education and Local Government Interim Committee. He further stated the members could be appointed to the committee from the Legislature as a whole. **REP. BRANAE** stated they saw this bill as a great way of improving things between the Board of Regents and the Legislature. He further stated that they felt some continuity would serve well to further a better relationship between the university system and the Legislature.

**REP. JACKSON** stated that he is concerned about making this committee permanent and putting it into law. He further stated that if the business started last year was not finished he would support continuing the committee one term at a time. **REP. JACKSON** stated that he is concerned because priorities change and then there are permanent committees that are no longer functioning but there is still the cost associated with that committee.

**REP. FRITZ** stated that she is concerned regarding the intent of the bill. She stated she is not sure the bill would encourage the cooperation between the Legislature and the Executive Branches and the Board of Regents. She further stated that with the composition of the committee she feels that it is a legislative committee. **REP. FRITZ** stated that she is against this bill.

**REP. LAKE** stated that he recognizes the need of good communication. He further stated that the intent of the current committee is very good, but there have been too many startups and shutdowns. **REP. LAKE** stated he is not sure that putting this bill into law would have the desired effect.

**REP. WAGMAN** stated that he will vote no on this bill. He stated that he believes they have the ability to meet, that they are adults and he believes that the process is there, the funding is there and they will sit down and talk.

**Vote:** Motion that **HB 24 DO PASS AS AMENDED** failed 5-9 with **REPS. GIBSON, BIXBY, BALLANTYNE, BRANAE** and **GALVIN-HALCRO** voting aye by roll call vote.

**CHAIRMAN ANDERSEN** asked for a Motion that the vote on this bill be reversed and the bill be tabled.

**Motion:** **REP. LEHMAN** moved that **THE VOTE ON HB 24 BE REVERSED AND BE TABLED**.

**Vote:** The motion carried by voice vote, 9-5.

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 15.3}*

**EXECUTIVE ACTION ON HB 107**

**Motion:** **REP. LAWSON** moved that **HB 107 DO PASS**.

**Motion:** **REP. ANDERSEN** moved that **HB 107 BE AMENDED**.

**Discussion:**

**REP. ANDERSEN** stated that the first amendment to the bill makes a change in the title. See attached.

**EXHIBIT (edh08a06)**

**Eddy McClure, Legislative Services,** explained the need for the change being made to the title of the bill.

**REP. LEHMAN** asked if the word, configuration, had been dropped. **Eddy McClure** stated that the word, pattern, had been dropped not configuration.

**REP. GLAVIN-HALCRO** asked what school district enrollment has to do with teacher shortages in specific areas.

**Eddy McClure** stated that she believes that the reason is that if enrollment goes up and down it may have to do with having a shortage of different types of teachers.

**REP. ALAN OLSON, HD 8**, stated that he had been appointed to an advisory board to study teacher shortages and salaries. He further stated that one of things used to track teacher shortages nationwide is trends in enrollment numbers. He further stated it was felt that this should be one of the tracking methods.

**CHAIRMAN ANDERSEN** stated that this is one piece of the puzzle that is being used to try to address the problem being addressed within this bill.

**REP. FRITZ** asked **REP. OLSON** if he thought the rational behind it was to determine that if enrollment is dropping they would not be able to provide the variety of teachers.

**REP. OLSON** stated that in the school districts, one of the things that is always being tracked along with enrollment are free and reduced meals and if it is a "poverty" school.

**REP. LAWSON** asked that Ms. McClure read subsection 3 in its entirety.

**Eddy McClure** read subsection 3.

**Vote:** Motion that **1ST AMENDMENT TO HB 107 DO PASS** carried 13-1 with Jackson voting no by voice vote.

**Motion:** **REP. LAWSON** moved that **HB 107 DO PASS AS AMENDED**.

*{Tape: 2; Side: A; Approx. Time Counter: 15.3 - 26}*

**Motion:** **REP. LAWSON** moved that **2ND LIST OF AMENDMENTS TO HB 107 DO PASS**.

**Discussion:**

**Eddy McClure** stated that the first two amendments were amendments that **REP. OLSON** brought to committee and the third, fourth and fifth amendments were added on by request of groups of this committee. **Ms. McClure** explained these amendments. See attached.

**EXHIBIT (edh08a07)**

**Eddy McClure** asked **REP. FRITZ** if she would like to explain the amendment regarding assignment.

**REP. FRITZ** stated that when a teacher receives certification, they can be certified to teach in either the major or minor area, and a teacher could have two major areas. She further stated that it does not have to do with certification, it has to do with the assignment at school. There was some confusion on this section. **REP. FRITZ** stated that if someone comes into the school, they are not hired with the fund remission scholarships because they are teaching one period of a shortage area; and because their primary assignment is to teach in one of the critical areas of shortage. **REP. FRITZ** further stated that if teachers went back to school for recertification for a critical needs area the cost of that recertification would be covered by this bill.

**Eddy McClure** stated teachers which incurred a debt to go back to school for re-certification to teach in an area of critical need, would be covered by this bill for this additional cost of education. She further stated this was added to the bill to clarify this area.

**Comments and Questions:**

**REP. LEHMAN** asked **REP. FRITZ** if the student loan payment would be prorated. **REP. FRITZ** replied that the credits earned in the critical shortage area would be paid for.

**REP. LAKE** stated that if the school requested the teacher to go back to school to pickup another endorsement to cover the critical need the student loan debt would be covered by this repayment program.

**Vote:** Motion **2ND SET OF AMENDMENTS TO HB 107** carried 14-0.

**Motion:** **REP. LAWSON** moved that **HB 107 DO PASS AS AMENDED** by voice vote.

**Discussion:**

**REP. FRITZ** stated she was concerned for the need to meet the needs of the area of critical shortage but not to fund teachers that fill in for one of these jobs.

**REP. LEHMAN** stated that he feels this is a bill to recruit teachers to the critical needs areas.

**REP. BALLANTYNE** stated that he supports this bill.

**REP. MCKENNEY** stated that he had mixed feelings about this bill, but he would support it. He continued that teachers are ranked at the bottom on the salary scale. He further stated that he felt part of the reason for teacher shortages in all fields is due to salaries. **REP. MCKENNEY** stated that he felt education should be in the forefront and that this is a band-aid approach. He further stated the need for driving up wages and the need to make a move to demonstrate that to Montanans.

**REP. JACKSON** stated that he agreed with **REP. MCKENNEY** and that he also had mixed feelings. He went on to say that he agrees that there is a definite problem. **REP. JACKSON** stated four reasons why he was going to vote against this bill: 1) that it is bad public policy; 2) there are many areas in which this bill is discriminatory; 3) that this only a band-aid measure; and 4) salaries are not competitive. **REP. JACKSON** went on to talk about salary schedules across the state. He further stated that he felt that the long term solution was to do something about beginning salaries and that this is poor public policy.

**REP. LEHMAN** asked to respond and ask a question or two of **REP. JACKSON**. **REP. LEHMAN** asked **REP. JACKSON** where in this bill salary schedules could be embellished through the use of a loan repayment. **REP. JACKSON** replied that was the reason he did not try to amend the bill. He further stated it would be too complicated. He stated that maybe a signing bonus would have been an easier way to go. **REP. JACKSON** stated that he felt there could be other ways to obtain money as a temporary measure and possibly put an expiration date on the bill.

**REP. LEHMAN** stated that maybe all of these things should have been done prior to reaching this point in the deliberations. **REP. LEHMAN** then stated that starting salaries in the public schools in the state is a local district option that each local district negotiates with its teachers.

**REP. WAGMAN** stated that he wants to vote for the bill. He further stated that this is bad legislation and will need to be tweaked in the next session because it does not work. He further stated that he believes supply and demand is the answer to the problem.

*{Tape: 2; Side: B; Approx. Time Counter: 0 - 26.2}*

**REP. WAGMAN** further stated that this is a band-aid bill. He went on to state that he felt that this bill discriminates against students that are frugal and worked to keep their debt down and that it could encourage students to go into debt. **REP. WAGMAN** stated that he believes that answers are in the market place.

**Motion/Vote:** REP. ANDERSEN moved for a ROLL CALL VOTE ON HB 107 DO PASS AS AMENDED. Motion carried 12-2 with REPS. WAGMAN and JACKSON voting no by roll call vote.

*{Tape: 3; Side: A; Approx. Time Counter: 0 - 3.1}*

**EXECUTIVE ACTION ON 78**

**Motion:** REP. BRANAE moved that HB 78 DO PASS.

**Discussion:**

REP. BRANAE stated he would like to amend this bill to go into effect immediately upon passage.

**Vote:** The motion carried 14-0 by voice vote.

**Motion/Vote:** REP. BRANAE moved that HB 78 DO PASS AS AMENDED, The motion carried 14-0 by voice vote.

**EXECUTIVE ACTION ON 153**

**Motion:** REP. BALLANTYNE moved that HB 153 DO PASS.

REP. BALLANTYNE stated he would like to amend this bill to go into effect immediately upon passage.

**Motion/Vote:** REP. BALLANTYNE moved that THE AMENDMENT TO HB 153 DO PASS. The motion carried 14-0 by voice vote.

**Motion/Vote:** REP. BALLANTYNE moved that HB 153 DO PASS AS AMENDED. Motion carried 14-0 by voice vote.

*{Tape: 3; Side: A; Approx. Time Counter: 3.1 - 6.5}*

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**ADJOURNMENT**

Adjournment: 5:12 P.M.

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REP. JOAN ANDERSEN, Chairman

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MARI PREWETT, Secretary

JA/MP

**EXHIBIT (edh08aad)**