

**MINUTES**

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

**COMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN JOAN ANDERSEN**, on March 14, 2003 at 3:00 P.M., in Room 137 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. Norma Bixby (D)  
Rep. Gary Branae (D)  
Rep. Nancy Fritz (D)  
Rep. Verdell Jackson (R)  
Rep. Bob Lake (R)  
Rep. Joe McKenney (R)

**Members Excused:** Rep. Bob Lawson (R)

**Members Absent:** Rep. Carol Gibson (D)  
Rep. Clarice Schrupf (R)  
Rep. Pat Wagman (R)

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

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp in these minutes appears at the end of the content it refers to.

**Committee Business Summary:**

Hearing & Date Posted: SB 307, SB 441, SJ 2, 3/10/2003  
Executive Action: SB 76, SJ 3

HEARING ON SB 120

Sponsor: **SEN. BILL GLASER, SD 8, Huntley**

Opening Statement by Sponsor:

**SEN. GLASER** stated that SB 120 would allow up to 100 people to work through a private entity to provide unique services to schools that could not find applicants anywhere else. It would be a way to provide and allow qualified teachers, administrators, etc. to work in areas of need, especially rural schools, and for those persons not to lose their retirement benefits as required under present law.

**SEN GLASER** distributed a memorandum from Don Walden in support of SB 120, attached as Exhibit 1.

**EXHIBIT (edh54a01)**

REPS. SCHRUMPF and GIBSON arrived at hearing.

Proponents' Testimony:

**Loran Frazier**, stated the purpose of the bill was to hire retirees and let them go back to work without losing their present teacher retirement benefits. He went on to say that it would be a benefit to the school districts and they would also save money. **Mr. Frazier** gave examples of how the bill would work if it were to pass. He pointed out that by being able to hire retirees to fill the vacant positions the school districts would be assured that they were hiring qualified personnel. **Mr. Frazier** explained that the second part of the bill would allow the retired teachers, that chose to go back to teaching, to elect whether or not they wanted to belong to the union and/or pay into the Teachers Retirement System (TRS). **Mr. Frazier** commented that SB 120 was a good bill, it would not do any damage to TRS, and would give school districts a chance to hire people that were certified to teach in the vacant areas.

REP. WAGMAN arrived at the hearing.

**Dave Puyear, Montana Rural Education Association (MREA)**, stated that SB 120 was an important bill to the rural and small schools in Montana. He went on to say that the bill directly addressed the crisis that Montana schools were currently facing, especially in the small and rural environments around the State. It would help fill the openings in a way that was creative and innovative and perhaps a little different from some of the other approaches. **Mr. Puyear** talked about the report out entitled, "Who Will Teach

Montana's Children." He went on to say that SB 120 directly addressed about four out the five top issues when it came to what research showed was the reason Montana educators were leaving the State of Montana. **Mr. Puyear** pointed out that educators were leaving the State because they could not continue on in Montana. They want to retire and not work full-time, there were different things they wanted to do and they could not do so and make a salary or wage that would be commensurate with their abilities. **Mr. Puyear** explained the cumulative affect that constantly replacing educators had on the quality of the teaching that was being done. He reminded the Committee that the bill would only allow 100 people to be employed at any one time. He indicated that the alternatives should be considered and strongly urged the Committee to support SB 102.

**Lance Melton, Montana School Boards Association (MSBA)**, spoke in support of SB 120. He stated that he concurred with the previous proponents. He reiterated that they were dealing with a significant problem and SB 120 was a step forward in correcting it. **Mr. Melton** commented on the limits set by the bill and the sunset clause. He explained that he saw SB 120 as a tool to be used in recruitment and retention of qualified educators.

#### Opponents' Testimony:

**David Senn, Executive Director, Teachers Retirement System (TRS)**, spoke in opposition to SB 120. He explained to the Committee the loss of funding that TRS would receive as a result of SB 120. He went on to say that they feared that teachers would retire earlier, draw their retirement, and then go out and work as teachers without having to pay into the retirement system. **Mr. Senn** relayed his concerns regarding paying benefits longer for early retirees, the tracking of the 100 proposed people that would be hired under SB 120 and the 10 year creditable service requirement. He explained he felt that SB 120 was bad public policy and urged a do not pass vote.

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 29.9}*

**Eric Feaver, MEA/MFT**, stated that they did not feel that SB 120 was restricted to retirees. He continued that anyone with ten years of creditable service would be eligible and could contract privately. He went on to say that SB 120 did not restrict what salary could be paid to the individuals that returned to work for the school districts. **Mr. Feaver** indicated that he felt SB 120 abused the retirement system and violated collective bargaining laws. He expressed his concerns regarding the adverse effect SB 120 would have on the Teacher's Retirement System and asked the Committee to table the bill.

REP. LAWSON arrived at the hearing.

**Charlotte Thomas, Vice President, Montana Retired Educators Association (MREA)**, spoke in opposition to SB 120, **Ms. Thomas** distributed copies of her written testimony, attached as Exhibit 2.

**EXHIBIT (edh54a02)**

**Larry Nielsen, Helena Education Association**, stated that he did not feel SB 120 would solve the problem of the shortage of educators. He outlined what he considered to be the flaws in SB 120. 1) How to determine the 100 people; and 2) who would monitor the program? He went on to say that he was concerned that the bill would have an adverse affect on collective bargaining and would encourage people to retire early. **Mr. Nielsen** pointed out that SB 120 frightened the members of his organization and urged the Committee to table the bill.

Informational Testimony: None

Questions from Committee Members and Responses:

**REP. JACKSON** asked David Senn to describe how the Teachers Retirement System figured their retirement benefits. **Mr. Senn** stated that their system was figured on a formula basis. It was years of creditable service times one and two-thirds percent. He continued that their members could retire at any age with twenty-five years of creditable service and receive full benefits. He continued by explaining further options that were available to the retirees at time of retirement.

**REP. JACKSON** asked Mr. Senn if it was detrimental to their system to have someone retire early. **Mr. Senn** replied that it was not detrimental to their system. He continued that they anticipated such occurrences. He went on to say that when someone retired early they received reduced benefits.

**REP. JACKSON** asked SEN. GLASER if retired teachers from other states could take advantage of the program or if it were strictly for Montana educators. **SEN. GLASER** responded that only teachers certified in Montana could benefit from SB 120.

**REP. FRITZ** asked Loran Frazier who would be making money from SB 120. **Mr. Frazier** replied that the private agency that did the hiring would probably make a profit.

**REP. FRITZ** asked Mr. Frazier if he saw any way that there would be a problem with the principal's authority over someone that was

employed by a private agency. **Mr. Frazier** stated that he did not see how it would be a problem.

**REP. FRITZ** asked Mr. Frazier who would determine insurance, hours and conditions of work. **Mr. Frazier** replied that the employing agency would determine those things.

**REP. FRITZ** asked Mr. Frazier if persons hired from private entities would be required to fill all days required by other employees. **Mr. Frazier** stated that they would have to fulfill all of the obligations required by the Board.

**REP. FRITZ** asked Mr. Frazier if he could see where a school district would use SB 120 to keep from having to give teachers tenure. **Mr. Frazier** replied that he did not feel it would happen anymore than it presently did.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 30.4}*

**REP. BALLANTYNE** asked Mr. Frazier if persons that came back to work off of retirement would be good teachers and administrators. **Mr. Frazier** replied that even after having been retired for a year or two retired persons would make very good teachers and administrators.

**REP. BALLANTYNE** asked Mr. Frazier if hiring retirees would discourage younger individuals from entering the field of administration. **Mr. Frazier** replied that in the areas where there were younger persons to take on the responsibility of administration it would not be a problem. He continued that he felt that the purpose of the bill was to address those areas that did not have anyone younger to take over when someone retired.

**REP. LEHMAN** referred Mr. Frazier to Line 28 and the words "private entity." He asked Mr. Frazier if they were talking about a temp service agency. **Mr. Frazier** replied that they were talking about a private agency which could be similar or an association.

**REP. LEHMAN** asked Mr. Frazier if there was such an entity in existence in the State of Montana. **Mr. Frazier** replied that there was no one that he was aware of.

**REP. LEHMAN** asked Mr. Frazier if he thought a private entity would be established. **Mr. Frazier** indicated that he did.

**REP. LEHMAN** asked Dave Puyear if he was aware of any administrators around the State who had retired and had continued working for school districts for considerations other than a salary and, therefore, did not contribute to teachers retirement and neither did the school district. **Mr. Puyear** responded that he did. He went on to say that there were numerous situations such as that described.

**REP. LEHMAN** asked Lance Melton if he agreed that the school districts were already negotiating with retirees, for short terms, that did not have to pay a fee to a private entity. **Mr. Melton** indicated that he did not believe that was true.

**REP. LEHMAN** referred Mr. Melton to Page 2, Line 2, Subsection (B) and asked about the fact that it did not specify if it were 100 persons per district, per county, or for the State of Montana, and if he anticipated that creating a problem, or if it should be defined better. **Mr. Melton** replied that he felt that the way it was defined was fairly restrictive.

**REP. LEHMAN** stated that he was concerned the way 100 was defined in the bill left the definition wide open. **Mr. Melton** gave a couple of different examples of how to change the wording.

**REP. WAGMAN** asked Mr. Senn if his concern was if they lost positions that pay into the retirement system they would be extending the pay back and the liability. **Mr. Senn** responded that was their concern.

**REP. GALVIN-HALCRO** asked Mr. Melton who they would be in trouble with if they went over the 100 persons? **Mr. Melton** replied they would be in trouble with the law, Title 20, where the bill would be codified.

**REP. GALVIN-HALCRO** asked Mr. Melton who would be enforcing the law? **Mr. Melton** responded that it could be enforced in a number of different ways. He gave a couple of examples.

**REP. GALVIN-HALCRO** asked Mr. Melton who would be keeping the tally on those 100 persons. **Mr. Melton** responded the Office of Public Instruction.

**REP. BALLANTYNE** asked Eric Feaver if he saw SB 120 as a move toward privatization. **Mr. Feaver** indicated that he did.

**REP. JACKSON** asked Mr. Frazier if there was a way to mitigate the impact on the retirement system. **Mr. Frazier** answered that one

of the things they had thought about was for the district to pay the unfunded liability portion for the employee.

**CHAIRMAN ANDERSEN** asked Mr. Melton if the school boards could pay their share of the retirement liability without the teachers contributing. **Mr. Melton** answered that it could be done but the bill would have to be amended to do so.

**CHAIRMAN ANDERSEN** asked Mr. Melton if he would object to amending the bill to allow the school boards to pay their share of the retirement liability. **Mr. Melton** indicated that it would be acceptable to them.

**CHAIRMAN ANDERSEN** asked SEN. GLASER if the amendments added in the Senate impacted the fiscal note or if it would still be the same? **SEN. GLASER** responded that the amendments added in the Senate had done away with the comments on the fiscal note. He went on to say that an amended fiscal note had not been requested by the Senate.

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 30}*

**REP. WAGMAN** asked Mr Senn if the amendment would be agreeable to him. **Mr. Senn** replied that it would not be agreeable to the Teachers Retirement System.

**CHAIRMAN ANDERSEN** asked Mr. Senn if the reason they were against the amendment was because of the loss of money to the Teachers Retirement System or was it the philosophy of someone going back to work after they had started to draw their retirement. **Mr. Senn** replied that the bill would create a step forward into using the retirement system as a supplemental income plan.

**Closing by Sponsor:**

**SEN. GLASER** closed on SB 120.

*{Tape: 2; Side: B; Approx. Time Counter: 0 - 8.2}*

**HEARING ON SJ 3**

**Sponsor:** SEN. BILL TASH, SD 17, Dillon

**Opening Statement by Sponsor:**

**SEN. TASH** stated that SJ 3 would allow members of the Montana National Guard that were called into active service to be

released from their status at the university system. It would further allow for them to be given credit for the amount of time they had put in and for any tuition or fees they had paid.

**Proponents' Testimony:**

**Brigadier General Randy Mosley, Deputy Director, Department of Military Affairs and the Assistant Adjutant General to the Montana Army National Guard,** pointed out that **SJ 3** would urge the Board of Regents to adopt a policy that would grant an educational leave of absence to a member of the Montana National Guard or other Reserve component of the United States Armed Forces who was called to active military duty. He continued that **SJ 3** provided for an educational leave of absence policy that would restore the student to their full educational benefits, and urge a 100 percent refund of their tuition. **Brigadier General Mosley** discussed the bill in detail. The bill would create uniform and consistent procedures across all post secondary institutions as to what the educational leave policy would be when a soldier or airman was called to active duty. **Brigadier General Mosley** urged the Committee to adopt the resolution and distributed an information sheet for their information, attached as Exhibit 3.

**EXHIBIT (edh54a03)**

**Hal Manson, American Legion of Montana** spoke in support of **SJ 3**. He stated that the rights of persons in the Montana National Guard and Reserves should be protected when they were called into active duty. He urged the Committee to recommend a do pass.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

**SEN. TASH** distributed a handout to the Committee of written testimony from Roger Hagan in support of **SJ 3**, attached as Exhibit 4. **SEN. TASH** discussed Mr. Hagan's written testimony. He went on to explain the background of the bill. **SEN. TASH** asked the Committee for their support on **SJ 3**.

**EXHIBIT (edh54a04)**

**{Tape: 2; Side: B; Approx. Time Counter: 8.2 - 23.9}**

**HEARING ON SB 380**

**Sponsor:** SEN. KEITH BALES, SD 1, Otter

**Opening Statement by Sponsor:**

**SEN. BALES** stated that SB 380 would allow schools to open student banks. He indicated that the purpose of the bill was to help train and teach the students the wise use of money and how the banking system worked to better prepare them for life when they are out on their own. **SEN. BALES** explained the various sections of the bill and their purpose.

**Proponents' Testimony:**

**John Cadby, President/CEO, Montana Bankers Association**, spoke in support of SB 380 and read from his written testimony, attached as Exhibit 5.

**EXHIBIT (edh54a05)**

**Annie Goodwin, Commissioner of Banking and Financial Institutions for the State of Montana**, stated that they strongly support SB 380. She went on to say that the purpose of the bill was to target financial literacy for the students of Montana.

**Keith Colbo, Executive Director of the Montana Independent Bankers**, expressed their support of SB 380. He expressed his belief that it was a timely bill and an appropriate bill.

**Lance Melton, Montana School Boards Association (MSBA)**, expressed their support of SB 380 and its innovative options. He urged the Committee to concur in the bill.

**Scott Morrison, Assistant Vice President for Public Relations and Communications with the Montana Credit Unions Network**, stated that they felt SB 380 was an excellent bill and mechanism to teach students about consumer finance.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. BALLANTYNE** asked Mr. Cadby who would be responsible if the bank defaulted. He further asked if there were liability

questions involved. **Mr. Cadby** answered that there would be a written agreement with the Board of Trustees guaranteeing reimbursement of any depositors funds that would be lost through insolvency.

**REP. BALLANTYNE** asked Mr. Melton if there would be a problem with the school boards being liable for any transactions that failed. **Mr. Melton** responded that he did not believe so and explained his reasoning.

**REP. BALLANTYNE** asked Scott Morrison about the branch that they were already operating in the Helena School District and why they needed SB 380. **Mr. Morrison** replied that the bill would formalize the process.

**REP. BALLANTYNE** asked Mr. Morrison if the reason for the bill was to make the operation more viable and legal. **Mr. Morrison** responded that SB 380 encouraged the school districts to allow banking operations in their schools.

**REP. GALVIN-HALCRO** asked Annie Goodwin if they were breaking the law by having a student bank in their school without having the law in statute. **Ms Goodwin** stated that the bill would make it clear that if an institution was run as a student run bank, and utilized the term bank within its title, that it would not be violating any provisions under Montana law. She went on to say that SB 380 further would define the title "financial institutions" that may exist under Montana banking codes.

**REP. GALVIN-HALCRO** asked Ms. Goodwin if they would have to put out for bid the opportunity to open a student bank in the high schools wanting to do so. **Ms. Goodwin** answered that they were hoping that there would be a reasonableness among the financial institutions interested in opening student banks in the high schools.

**REP. GALVIN-HALCRO** referred her question to Mr. Cadby. **Mr. Cadby** responded that under current law credit unions already had the authority to legally operate student credit unions in the schools. He went on to say that he would encourage the banks to get involved.

**REP. JACKSON** asked Mr. Melton if there was a need for the bill as some schools already operate school stores, etc. and if those types of programs were covered under present law. **Mr. Melton** stated that he felt the bill was necessary and explained why he thought so.

**REP. LAKE** asked Mr. Cadby if it was the North Dakota Department of Education or the banking industry curriculum that the Office of Public Instruction would adopt. **Mr. Cadby** answered that the curriculum was already available from the National Banking Association.

**REP. LAKE** asked Mr. Cadby if SB 380 was for banking education rather than putting an actual branch bank in the schools. **Mr. Cadby** responded that it would be an education curriculum that would give the students hands-on experience.

**REP. LAWSON** asked Scott Morrison if the credit union at Helena High School was an actual branch office or if it was a student financial institution. **Mr. Morrison** replied that it was a student financial institution and a branch of the credit union at the same time.

**REP. LAWSON** asked Mr. Morrison how it was decided who received the opportunity to have a banking institution in a school. **Mr. Morrison** stated that there had been an opportunity for all of the financial institutions in the area to bid on putting a bank in the school.

**Closing by Sponsor:**

**SEN. BALES** stated that SB 380 would give the students an opportunity to have hands-on experience, and to learn in a real sense banking from the inside and outside. He explained that he felt it was a valuable tool and would be beneficial to the students.

*{Tape: 3; Side: A; Approx. Time Counter: 0 - 29}*

**EXECUTIVE ACTION ON SB 76**

**Motion:** **REP. BRANAE** moved that SB 76 BE CONCURRED IN.

**Discussion:**

**REP. FRITZ** stated that taking out all of the definitions for special education would leave it wide open as to who would merit special education services. She went on to say that she did not see why they needed to pre-empt an action on the federal level that has not yet been decided. **REP. FRITZ** asked if Mr. Runkel could be called upon to speak to her concerns. **Mr. Runkel** responded that it was not their intention to expand the numbers of kids that would be identified as eligible for special

education. He explained that it was their intent to make sure that the definitions now and in the future would copy verbatim the requirements under federal law. He expressed OPI's concern that there would be two sets of definitions in place when the Individuals With Disabilities Education Act (IDEA) was reauthorized. He continued that they believed the definition of learning disabilities would be changed under the re-authorization. **Mr. Runkel** pointed out that the President's Commission on Special Education Finance had advised them that the definition was too wide open, and that children were being placed in special education because of educational failure, not because of a disability. He went on to say that if the bill did not pass there would be a federal statute and a state statute that included two different areas of service which would create problems.

**REP. JACKSON** asked Mr. Runkel if the term "developmentally delayed" was under the old or new definitions. **Mr. Runkel** stated that the term "developmentally delayed" was a complication of the bill. He continued that under federal law there was already a category for developmentally delayed, however, that category had not been identified under state law and needed to be added. **Mr. Runkel** went on to explain what would happen should the bill pass.

**REP. JACKSON** asked Mr. Runkel to explain the meaning of "developmentally delayed." **Mr. Runkel** responded there was a standard in the Administrative Rules dealing with developmental delay. He went on to say that they had to be able to show on a test that the child had a significant delay which would be measured by two standard deviations. **Mr. Runkel** explained how the testing was done.

**REP. BALLANTYNE** asked Mr. Runkel if the bill could go into effect contingent upon the passage of the federal law. **Mr. Runkel** indicated that they would have no objection to revising the effective date.

**REP. LEHMAN** asked Mr. Runkel if the changes could be done by changing the Administrative Rules. **Mr. Runkel** explained that was what they hoped to do, however, they needed to be able to remove the definitions from state statute to do so.

**Motion:** **REP. GALVIN-HALCRO** moved that SB 76 BE AMENDED REVISING THE EFFECTIVE DATE.

**Discussion:**

There was discussion as to the exact wording of the amendment and it was determined that Ms. McClure would prepare the proposed

amendment and get together with the Committee members on Saturday for their approval.

**Vote:** Motion carried 13-1 by voice vote with REP. JACKSON voting no.

**Motion/Vote:** REP. GALVIN-HALCRO moved that SB 76 BE CONCURRED IN AS AMENDED. Motion carried 14-0 by roll call vote.

REP. BRANAE will carry SB 76 on the floor of the House.

**EXECUTIVE ACTION ON SJ 3**

**Motion/Vote:** REP. GALVIN-HALCRO moved that SJ 3 BE CONCURRED IN. Motion carried 14-0 by voice vote.

**ADJOURNMENT**

Adjournment: 5:55 P.M.

---

REP. JOAN ANDERSEN, Chairman

---

MARI PREWETT, Secretary

JA/MP

**EXHIBIT (edh54aad)**