**MINUTES**

**MONTANA SENATE**
**58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON FINANCE AND CLAIMS**

**Call to Order:** By **CHAIRMAN TOM ZOOK,** on March 19, 2003 at 8:00 A.M., in Room 317 Capitol.

**ROLL CALL**

**Members Present:**
Sen. Tom Zook, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Edward Butcher (R)
Sen. John Cobb (R)
Sen. Mike Cooney (D)
Sen. John Esp (R)
Sen. Royal Johnson (R)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Emily Stonington (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

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

**Committee Business Summary:**
Hearing & Date Posted: SB 454, 2/27/2003; SB 303, 2/28/2003; SB 323, 2/27/2003; SB 267, 2/27/2003; SB424, 2/27/2003

Executive Action:

## HEARING ON SB 454

__Sponsor__: **SEN. BOB STORY, SD 12, Park City**

__Proponents__: **Harold Blattie, Montana Association of Counties**
**Madalyn Quinlan, Office of Public Instruction**
**Bob Vogel, Montana School Boards Association**

__Opponents__: **Chuck Swysgood, Office of Budget and Program Planning**

__Opening Statement by Sponsor__:

**SEN. BOB STORY, SD 12, Park City,** opened on **SB 454,** a bill to revise the schedule of block grants for schools. He advised the bill makes changes in statutory language and corrects some errors in the BASE year. The numbers in the back of the bill are changed to BASE numbers. The bill is confusing because the way the statute is written; it has **HB 18** corrections and then the new corrections. The bill started out as bill to remove the growth factor. That was taken out of the bill in the **Senate Education Committee**, and currently it's a bill to adjust those numbers so that everybody will have a true BASE from hereon out. He didn't think it would need to be adjusted again. The **Montana Association of Counties** had worked to get the BASES right, and he believed they were as accurate as they are going to get. He discussed the new fiscal note.

__Proponents' Testimony__:

**Harold Blattie, Montana Association of Counties,** supported the bill and stated in it's present form it makes things right. He described the history of the county block grants situation. After the special session of 2002, he met with **SEN. STORY,** the **Department of Revenue,** and the Governor's office, and was determined to move forward with a bill that protects all counties. He explained a summary worksheet. **EXHIBIT(fcs58a01)** He stressed the numbers were more accurate than before. He advised he had no vested interest in what the committee chose to do with the growth factor.

**Madalyn Quinlan, OPI,** testified in support of **SB 454** in its current form. She appreciated the fact that the **Senate Education Committee** restored the growth factor for the **HB 124** block grants to schools. These block grants were passed last session and a commitment was made to schools to put in a growth factor. Block grants replace monies that came from motor vehicle fees and other sources of local revenues. Those were a growing source of revenues and it is important that schools get those block grants with an inflator.

**Bob Vogel, Montana School Boards Association,** supported the bill in its current form because it fulfills the promise that was made in **HB 124** last session for a modest growth factor.

**Opponents' Testimony**:

**Chuck Swysgood, Office of Budget and Program Planning,** advised he reluctantly opposed the bill in its current form. This was one of their bills, originally, in their whole package of education bills when they started the session. That bill contained the freezing of the growth factor of .76% for the next biennium. The money that was generated from that was used in their overall educational package. This bill has the growth factor back in it. If the effective date could be delayed on the bill to July 1, 2003, it would make it somewhat better. He didn't think the impacts to the counties would be that great.

**Questions from Committee Members and Responses**:

**SEN. EMILY STONINGTON** stated the deal was predicated on the fact that the motor vehicle revenues were increasing. She asked if revenue from motor vehicle fees are continuing to increase.

**Mr. Swysgood** said he hadn't looked lately, but they were projected to increase.

**SEN. STONINGTON** questioned **Judy Paynter, Department of Revenue.** She stated the Executive would prefer to see the growth factor frozen. That growth factor was part of the **HB 124** deal predicated on the fact that motor vehicle fees were continuing to increase. She wanted to know if they are increasing.

**Ms. Paynter** advised the motor vehicle fees are growing at about 2.6% a year, and motor vehicle taxes are growing about 2.4%.

**SEN. STONINGTON** asked if the .76% growth factor didn't take all of the growth, just a portion of it.

**Ms. Paynter** replied yes, just a portion of it.

**Closing by Sponsor**:

**SEN. STORY** closed on the bill. He said the .76% was put in there because the block grants contained not only motor vehicle, but one of the big portions was the business equipment reimbursement from the 6% to 3% reduction. All these things averaged together was the .76%. When they did **HB 18** in the special session and adjusted these numbers, the fiscal impact was around $3 million net to the general fund. In the new fiscal note, it will cost less than the anticipated cost in **HB 124.**

## HEARING ON SB 303

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

**Proponents**: **Lance Melton, Montana School Boards Association**
**Dave Puyear, Montana Rural Education Association**
**Madalyn Quinlan, OPI**
**Dan Zorn, Assistant Superintendent of Schools, Kalispell**
**Carmen McSpadden, President, Montana School Boards Association**
**Jack Copps, Montana Quality Education Coalition**
**Brian Gunn, Superintendent, Great Falls**
**Eric Burke, MEA-MFT**

**Opponents**: **None**

**Opening Statement by Sponsor**:

**SEN. BILL GLASER, SD 8, Huntley**, opened on **SB 303,** a bill to modify school funding laws. The bill was amended by the **Senate Education Committee Subcommittee** and the **Senate Education Committee.** The bill in its current form has an increase of 2% and 1% in the school schedules for 2004 and 2005. That equates to $9.4 million the first year and $13.5 million the second year. After the next two years, 2006 and 2007, it would increase. The legislature decided to rescind that. Schools have an ending fund balance at the end of each year. Currently they're either putting it into the new budget, re-appropriating it, or sending it back to the taxpayers. Schools would be allowed to keep that money for up to two years. He explained the three year averaging, which would help the schools in eastern Montana. If there is a greater than a five percent increase, a budget amendment would get some additional money from the state. He stated the five items could be considered together or separately. If they did everything, it would cost $50 million. If they did the CPI, it wouldn't cost anything in this biennium. If they did 2 and 1, it would cost $22.3 million. The fiscal note gives a pretty good indication, but should be viewed as a good guess. He was trying to do the right thing in the long term for children. His highest priority would be the CPI. It stabilizes schools in the long run, and answers some of the questions in the lawsuit *Columbia Falls v. State of Montana*. His second priority would be the 2 and 1. The next priority would be increasing the schedules. Next would be the three-year operating reserve because it affects the most schools. The last would be the three year averaging, because it's only a short term fix. There were other things in the bill that were removed due to budget restraints.

**Proponents' Testimony**:

**Lance Melton, Montana School Boards Association,** advised they are in strong support of **SB 303.** They suggested an amendment on the averaging of ANB; they would like to see that only apply to districts with declining enrollments. This was a proposal that was studied at length during the last interim, both by the Governor's School Funding Advisory Committee and the **Interim Education Committee.** Both came out with unanimous support for implementation of an averaging concept that would apply only to districts with declining enrollments. The cost would be about $3 million extra per year in the current biennium. They would rather see some other area of the bill cut by $3 million in order to make that proposal work the way it was intended. The bill gives them tremendous hope and a reason to believe something positive and permanent can be done with K-12 public education. He explained a chart of historical funding increases by source compared to CPI-U inflation. **EXHIBIT(fcs58a02)** When the legislature commits increased funding to schools in the formula, district taxes will be positively impacted; a tax decrease will be created. The best part of the bill, he felt, was **SEN. GLASER'S** inflationary adjustment. It shows forward thinking that can overcome term limits and heated debates and get back to focusing on creating a stable environment for funding education in Montana.

**Dave Puyear, Montana Rural Education Association,** expressed strong support for **SB 303** and appreciation for the work of **SEN. GLASER.** He felt **SEN. GLASER** understands the situations that schools are facing. The increase in the schedules for the CPI, the ability to lower the ending fund balance, and the three-year averaging are all excellent ideas. For the rural schools, the three-year averaging for decreasing enrollments is their highest priority. The other critically important issue is the rollover of the ending fund balance. That will allow doing larger purchases and a better job of long term planning. ***{Tape: 1; Side: B}*** They appreciate that the legislature understands the challenges they are facing. Just because schools decrease in a few students or what may look like a lot of students at various grades and levels, doesn't mean the expenses go down in proportion. He proposed the same thing is true when it comes to increased expenses and the things they are faced with when ANB's go up. There are not a lot of rural schools in that situation. When there are increased enrollments, the same kind of challenges affect the students of those districts. They need textbooks, etc, and need those dollars. They would like to see the increased ANB taken out of the proposal.

**Madalyn Quinlan, OPI,** advised the **State Superintendent of Schools** supports this legislation. They think the increases of 2% in the first year and the 1% in the second year will help schools maintain programs and recruit and retain teachers. They expect a 1.8% decline in enrollment in 2004, and roughly a 1.5% in 2005. These increases in the per student funding rate will help offset some of the budget cuts schools will face because of declining enrollment. They also think the CPI adjustment is an important piece of the bill. **OPI** brought forward **SB 92,** a bill for three year averaging for schools with declining enrollment. They think that is a better way to do it for the reasons others have expressed.

**Dan Zorn, Assistant Superintendent of Schools, Kalispell,** spoke in favor of the bill for the reasons already stated. He read from written testimony. **EXHIBIT(fcs58a03)**

**Carmen McSpadden, President, Montana School Boards Association,** advised she is also the chair of the Anderson School District, an 180 student K-8 district outside of Bozeman. She supported the bill and requested an amendment to remove the averaging for increasing enrollment. One of the toughest things they've had to deal with is predictability. One of the advantages with CPI indexing is the ability for locally elected officials to have an idea what to look for in the upcoming years. Preserving the idea of predictability is critical. Increasing the ANB averaging is about small schools. This will cost Anderson School $15,147 every year. That is huge for their district. They are dealing with growth and are a district with little or no commercial development; there are two farms and lots of houses. They planned on ANB increasing to support a new building. Everything else in the bill would be completely wiped out for them. She asked they support the bill with an amendment to remove the increasing enrollment portion.

**Jack Copps, Montana Quality Education Coalition,** supported the cost of living adjustment for education funding. It will help resolve the issues before the court. The complaint calls for a cost of living adjustment that would help stabilize funding for education and add predictability. It doesn't answer the question of adequacy, but provides for a very important piece of the puzzle.

**Brian Gunn, Superintendent, Great Falls,** advised they lose and are projected to lose about 250 students a year for the next four or five years. This coming year, they project they will lose $800,000 in state funding because of lost student enrollment of 250 students. For the last four years, they cut a proportional number of teachers for the lost student enrollment. They have already made the decision to cut ten teachers. Cutting those teachers will save about $300,000 for a net loss of $500,000 that they don't have a good way to make up. The averaging of ANB is a critical factor to them. He advised the bill is not a gold mine for schools. The first year with the 2%, they would have no levy in Great Falls. The second year, they would have a levy of $1.6 million, a tough levy to pass, and cuts of $340,000 because they will be at the cap. He spoke in support of the indexing and CPI.

**Eric Burke, MEA-MFT,** supported the bill. The CPI is an essential ingredient to help schools have a consistent level of support in the state. The 2% and 1% increases were in the Governor's budget. They feel that is the minimum that should be talked about in terms of supporting schools. The two year operating reserve is another good mechanism they believe will allow schools to use their money efficiently and wisely over time. The averaging component is something they would like to see changed in the bill. Averaging up creates a problem that isn't there right now. It solves a problem for many districts with declining enrollments, and they supported amending the bill to only include averaging for declining enrollment districts. He acknowledged the fiscal commitment required, but submitted a lot is asked of schools and teachers to achieve higher standards.

**Opponents' Testimony**:

**Informational Witnesses**:

**John Fuller, Teacher, Board of Public Education Member,** advised the Board supported averaging only for those schools with decreasing enrollments.

**Questions from Committee Members and Responses**:

**SEN. GREG BARKUS** noted the CPI adjustment sounds like a popular issue. He asked **Mr. Melton** if the association, the schools, and teachers are prepared for the potential of deflation.

**Mr. Melton** advised they haven't seen any deflation to date, and it would be a welcome development. Under the tenure laws, there will never be any deflation in salaries for instructional staff. Deflation is not something they contemplated or see on the horizon.

**SEN. BARKUS** asked if CPI adjustments are only about going up.

**Mr. Melton** advised if the CPI went down, they understand that's the way the bill would implement it. They are willing to follow what the CPI does, because it brings integrity to the process.

**SEN. BARKUS** asked if the association would accept capping of the CPI.

**Mr. Melton** said if capping means something less than what the CPIU act tries to accurately portray, he wouldn't think so. They would then be in a predicable pattern of decline and continuing increased reliance on district property taxes to make up the difference. If the CPIU is going to be the benchmark to accurately portray the increased costs of education, and it is capped at something less than what they believe it's going to be, it is just a formula for disaster.

**SEN. BARKUS** advised his concern is with runaway inflation.

**Mr. Melton** replied when there was that kind of inflation in the late 1970s and early 1980s, the legislature responded with an 18% and 15% increase in the formulas. Even without an inflationary formula in place, the historic trend is the legislature recognizes when schools have those kinds of cost adjustments and have responded. If there is runaway inflation, it will significantly impact their ability to deliver goods, services, and education to children.

**SEN. BARKUS** said there was testimony that averaging affects the smaller districts more than the larger districts both up and down. He asked why not consolidate.

**Mr. Melton** advised there a number of impediments to voluntary consolidations that are in the law at this time. Their organization has always stood for helping school districts find ways to collaborate, and that includes consolidation when they wish to do so. The examples they've seen of consolidation don't show any demonstrable savings. One is the Kessler School District, where Helena and Kessler cooperated in an annexation similar to a consolidation. It was sound for educational purposes, but the superintendent of the independent elementary district made $55,000. The next year, under the salary schedule for principals in the Helena School District, the principal made

$65,000. The district clerk made no more than the school secretary, and the teachers got a 30% increase in pay.

**SEN. BARKUS** advised he was curious about the effect of averaging up and down on consolidation. He asked if it was positive for districts. Testimony regarding the school district in Bozeman was that averaging would greatly affect their district.

**Mr. Melton** saw consolidation and averaging of ANB as being two separate issues. Averaging for districts with a decreasing enrollment would be a great way of stabilizing the decline they experience. They believe averaging of ANB is an essential component.

**SEN. KEITH BALES** asked about page six, lines four and five. He asked what it means if they can use either a single year or a three year average on increasing enrollments. ***{Tape: 2; Side: A}***

**SEN. GLASER** advised he didn't understand exactly what it means and referred the question to **Madalyn Quinlan.**

**Ms. Quinlan** advised on page nine, lines 15-23, under a specific circumstance, if a school has existed less than three years, instead of averaging the ANB the school uses the current year ANB. There are some circumstances on page six, where schools are using the current year ANB. By and large, school districts would be using the three year averaging.

**SEN. JOHN ESP** asked if the CPI went down, would staff be reduced.

**Mr. Melton** replied yes.

**SEN. ESP** asked if the 1% and 2% would be preferable to averaging up and down.

**Mr. Melton** replied yes.

**SEN. DEBBIE SHEA** wondered if the sponsor would be amenable to the amendment for $3 million extra to address the declining enrollment.

**SEN. GLASER** advised this is not his bill. It is the legislature's bill and they should do what they must do. If the committee decided to turn it around and give a 1% and 2%, versus a 2% and 1%, on the average, the schools across the state would have less money. That would be between the conscience of the committee and the advice of the institutions.

**Closing by Sponsor**:

**SEN. GLASER** closed on the bill. He said it's about time. They have three broad labeled bills before them, and he couldn't say anything in any of those bills is going to happen. In tough times, its better to know things are going to get better. In tough times, there are going to be tough choices. He asked them to try to look at the horizon.

## HEARING ON SB 323

**Sponsor:** **SEN. DUANE GRIMES, SD 20, Clancy**

**Proponents:** **Tom Beck, Governor's Office**
**Chuck Swysgood, Office of Budget and Program Planning**
**Kris Goss, Governor's Office**

**Opponents:** **Lance Melton, Montana School Boards Association**
**Eric Feaver, MEA-MFT**
**Madalyn Quinlan, OPI**
**Dave Puyear, Montana Rural Education Association**
**Dan Zorn, Assistant Superintendent of Schools, Kalispell**
**John Fuller, State Board of Public Education**
**Carmen McSpadden, Montana School Board Association**
**Bob Odermann, Great Falls Public Schools**
**Brenda Nordlund, mother and trustee**

**Opening Statement by Sponsor:**

**SEN. DUANE GRIMES, SD 20, Clancy,** carried the bill on behalf of the Governor's office. The bill has one large component, the issue of retirement. The more money the federal government gives for education, the more taxes are passed along to local taxpayers to help fund federal programs. The bill would require schools to budget out 15% of the federal dollars they receive to pay retirement benefits and other employment costs for federally funded employees. **HB 21,** from the special session in 2002, requires full recovery of indirect costs of federal and private grants. This bill is a good government and fairness in budgeting approach for taxpayers. There is some question regarding future federal funds. **EXHIBIT(fcs58a04)** The **Senate Education Committee** inserted a cost of living component which addresses a great many problems schools will face in the future and he was entirely supportive of that. He mentioned schools are an intricate component of social service and juvenile justice policy. Adequate funding will have positive effects down the road on those from dis-functional surroundings or those with extra challenges. He said it is similar to prevention dollars saving subsequent social policy dollars. The bill will increase the schedules 2% and 1% in the upcoming biennium. The bill was amended to remove some of the most onerous aspects of the retirement issue where it affected food services. The three issues in the bill are cost of living, the 2 and the 1 and the federal retirement issue. The policy issue is should future federal dollars be allowed to impose tax burdens on citizens. How critical that is depends on what happens with federal funds and the incredible amount that may be coming as a result of the federal program No Child Left Behind. The inflation adjustment is important for the well being of schools. The block grants would be used in a different way. The issue of funding the 2 and 1 would need to be addressed. He thought if 15% of federal funds are taken out for retirement, it is a 15% cut for the existing positions that serve in the entitlement programs. The **Senate Education Committee** proposed those existing positions be grand-fathered in. The 15% coming out for retirement funds would apply only to future retirement dollars. That works well for budgeting purposes for schools because it doesn't affect current positions. For future dollars, if a big windfall comes in, they will have to budget 15% for benefits and retirement. **SEN. BOB STORY** thought it had to be grand-fathered by individual educator rather than position. When that individual retires, 15% would be taken out for the person replacing that individual. This would create a fiscal impact to schools and he preferred grand-fathering by position. There is a significant fiscal impact whether the committee covers individuals or positions or whether they do that at all.

**<u>Proponents' Testimony</u>**:

**Tom Beck, Governor's Office,** advised **Governor Judy Martz** proposed this bill as a possibility of giving some entitlements to K-12 education. They opposed the amendments because it jeopardizes the 2% and 1% they can put into the entitlement programs over the biennium. The bill takes away the burden of the taxpayers picking up the extra cost when the state gets federal funds.

**Chuck Swysgood, Office of Budget and Program Planning,** supported **SB 323** with amendments they will offer in executive session. He described the difficult budget considerations they had because of the magnitude of the loss in revenue. The ability to address the wants and needs of those needing services is limited. They made an effort not to hurt K-12 any more than they were currently experiencing while addressing the hole in the 2002 base. They had not been able to do that with any other agency in state government. The burden put on other agencies was significant. The Governor made the commitment to limit the impact to K-12 and he strived to do that through the budgeting process. They had a package of bills to address education concerns. He didn't know what the final outcome would be. Those bills address concerns related to averaging, teacher retention, health insurance, in addition to this bill. He thought the amendments put on in the **Senate Education Committee** do not accomplish what they envisioned. The amendments he would offer put the bill back to its original form. The reason for that is every component of the bill is predicated on pieces going together. He noted education doesn't like the bill. He thought the bill would address the problem related to federal funds coming into the state and the cost of federal retirements being shifted to the county taxpayer and the state general fund. They think it's good policy to address this, and know it will cause concern in education about lost spending. They attempted to address that concern with the 2 and 1. That is $36 million over the biennium and an ongoing cost to the general fund. They believe the 2% and 1% offsets the lost 15% that requires federal funds to go to the retirement hole. The bill does not give any more money other than federal money. They had no more money to give education, and it was a struggle to keep them right where they are. This was an attempt to correct an ongoing problem to the taxpayers and the general fund as more federal revenue comes to the state. The taxpayers will see a decrease. Because of the backfill there will be tax increase, but it will be a wash. They believe the taxpayers are no worse off under this bill than they are currently, and in the future they will be better off. Any other mechanism to address the retirement takes away the ability to backfill with the 2 and 1. The other amendment is to strike the CPI that was amended into the bill. ***{Tape: 2; Side: B}*** They recognize this is a key component for education, but they don't feel it is appropriate at this time given the magnitude of the revenue losses. It doesn't take effect until the next biennium, but he didn't think they should commit until they know what revenues are going to be after the current biennium. He mentioned they worked with **DPHHS** and **OPI** to figure out how to get more federal funds to help pay for education costs. One idea relates to special education funding. They will use the $34 million to match Medicaid funds to get more money for schools to help address special needs. The biggest increase to education in the bill comes from the increasing federal funds. There is a significant obligation for the retirement for those positions.

**Kris Goss, Governor's Office,** advised their education package addressed teacher recruitment and retention, a K-12 public school renewal commission, health insurance pooling, and other issues. He thought **SB 323** fits nicely in that package because of the 2% and 1% increase. In order for the budget office to make that happen, they had to find the dollars. To give the schools this increase in the current fiscally difficult time, they corrected a school accounting procedure to make sure the county retirement and general fund dollars were not spent relative to federal increases that came to Montana. This accounting procedure allowed federally funded and mandated employees to have retirement pay and save county dollars. The No Child Left Behind Act has provided an average of over 11% in increases of federal dollars since it's inception in the latter part of 2001 and early 2002. That is a $30 million increase in federal funding. These mandates and dollars can be expected to increase at various levels until 2014, the entire life of the bill. Regardless of what happens at the federal level, schools will have to make sure these mandates are met. This correction makes sure to capture the savings. To fully fund the 2% and 1% entitlement increase, the bill used **HB 124** block grants. The bill in it's current state causes problems for schools and he encouraged the adoption of the amendments outlined by the budget director. One of the amendments will address the CPI increase, and another will allow for district transportation and food services, etc., to continue to access county retirement. Without the amendments, the bill retains the entitlement increases from the original bill. It changes the retirement correction. This causes unnecessary problems for schools in administering retirement to school district employees. Beyond that, it does not accrue the same savings needed to fund the entitlement increases. The CPI increase forces a future legislature to adopt that proposal. The entitlement increase is a viable solution.

**Opponents' Testimony**:

**Lance Melton, Montana School Boards Association**, opposed the bill. If the amendments from the Governor's office are adopted they would have significant additional concerns in terms of tax shifts to district taxpayers. The relief to the county taxpayer is rolled over in many instances to the district taxpayer. He advised that is not revenue neutral and is not a wash. He stated starvation is not addressed by cutting off an arm and starting to eat it. It is addressed by looking for food. In terms of addressing the funding needs of school districts, that is not addressed by cannibalizing the system and forcing that increase over onto the taxpayers; it is done by looking for the revenue necessary to sustain what schools need. **SB 303** has a dramatic vision with unprecedented benefits and stability for K-12 public education. **SB 323** goes forward with unprecedented infliction of harm on school districts. They can't support a bill that says it provides increasing funding to schools knowing that compared to what they currently have, it is a cut of $22 million over the next biennium. He explained a chart which was modified to reflect one-time only flex money funding operations. **EXHIBIT(fcs58a05)** This is not about savings from declining enrollment, this is about cannibalization. He urged they not concur in this bill, and work with **SB 303.** He gave them a handout of costs associated with the No Child Left Behind Act and explained it. **EXHIBIT(fcs58a06)** The costs are higher than the funding from the federal government. It is significant to roll over 15% into the county-wide retirement levy. That is the way they have always paid for state mandated costs for teacher's retirement, PERS, unemployment insurance, and federal payroll taxes. Finding 15% when they are already short by millions of dollars is unbearable. In the second year of the coming biennium, federal funding may be less than the first year. The contemplation in **HB 2** that there will be $40 million in increased funding over the next two years compared to the present year's funding levels in federal funds can't be counted on. The levels could be zero in 2004 depending on the war in Iraq and the economy. He felt the bill is fraught with problems, un-amendable, un-supportable, and he urged the bill be tabled.

**Eric Feaver**, **MEA-MFT**, advised **Mr. Melton** accurately and precisely outlined the issue. He characterized the bill as "not a pretty picture." He thanked the Governor's office for **HB 107 and HB 302.** He felt those bills were a lot better than **SB 323.** The 2 and 1 are not much to shout about with the budget office's amendments. It would be better to kill the bill. Schools would be better off getting nothing in ANB and basic entitlement increases if the price of getting those is to create a yawning black hole through time where school districts have to pick up the costs of federally funded school employee retirement benefits. The federal government is not a constant partner and it can't by assumed they'll continue to fund things they haven't funded in the past. The federal government promised 30 years ago it would pay 40% of the cost of special education. Its not even close to that, and wouldn't be in his lifetime. No Child Left Behind is the most outrageous intrusion of federal intervention in the public schooling of America. Its costs can't be estimated, but it is assured the federal government won't pay for them. To account for retirement costs in a different way would be different from anything school districts have ever done before. School districts will incur those costs and they will be taxpayer costs. When a county levy is squeezed down into a district levy, the costs are not avoided and taxpayer inequity is created. That has been avoided, in part, with the county-wide levy practice. He thought that was a good accounting practice. He advised killing the bill in its current or amended form and looking at the bills that could really make a difference for school districts, including **HB 107, HB 302, and HB 193. HB 193** would create another entitlement to recognize fixed personnel costs school districts incur no matter what enrollments might be. For $14 million they could do something really good for schools.

**Madalyn Quinlan, OPI,** advised the bill has been amended to allow a district to charge retirement benefits for current employees who are paid with federal monies to the county retirement funds. It requires when a district has turnover and new hires, that the district charge the retirement benefits for those federally funded employees to the federal funding source. They have a concern about inconsistency and they think the federal government may have a problem with this idea. Federal regulations say that in order to be an allowable cost of a federal program, costs must be consistent with policies that are applied uniformly to both federal awards and other activities of government. The amendments set up differential treatment between federal programs and non-federally funded programs in terms of new positions and new hires. Federal regulations also require that costs charged to federal programs be treated consistently under similar circumstances. Treating the same type of cost as allowable on one day and then disallowing it on the next day could be a problem. They have concerns about implementation of the bill in its current form. School districts, especially the larger school districts may have trouble implementing this. It will have to be done manually when they have turnover in these positions. They will not be able to program their payroll systems and accounting systems to accommodate the proposal as it exists in the bill currently. They have a strong concern about enforcement. They feel the legislature will expect **OPI** will be able to track whether school districts are doing this appropriately. The office doesn't know district positions and doesn't collect information on district salaries. They will not know which employees are being charged to federal programs and which employees benefits are being charged to the county retirement funds. They are concerned that auditors will have trouble with this as well. The bill will take two growing sources of revenue away from school districts and use that money to increase the schedules and there is a significant problem with that. They have federal monies that are growing, and some growth rate in the **HB 124** block grants. Page three of the fiscal note says the 2 and the 1% increases would give schools $22 million additional funding in 2004 and 2005 over the BASE budget level. There would also be some increases in costs for county retirement. The way it is paid for is to take away the **HB 124** block grants for county wide school funds. Counties would lose about $21 million in those county block grants, and that would be used to fund the retirement increases. With the amendments being discussed, there is some savings to the taxpayer by having these retirement benefits be fully charged on federally funded employees. The frustration for schools is it will pay for additional funding, up to $22 million, this session but as soon as there are declining enrollments, schools will lose that money. In the 2004-2005 biennium, schools will lose $15 million in state support because

of declining enrollment. If that were to happen again going into the 2007 biennium, the $22 million could drop down to $7 million.
***{Tape: 3; Side: A}***
**Dave Puyear, Montana Rural Education Association,** hoped the committee could weigh the concern in their community about a bill like this. He had never seen a bill that has more concerns expressed from the membership than this bill has. He said there has got to be a better way than this bill and specifically the retirement option included in this bill. His concern is the direct negative impact the retirement option has on the relationship with education. Schools do not believe they will receive a lot of those federal dollars. The retirement option is insidious because it is going to be hard to explain to the electorate. They would prefer a straight up cut of the entitlements. He thought the grand-fathering ought to be focused towards positions. If it is focused towards individuals, it really hurts rural schools because they have more turnover. They appreciate the 2 and the 1 that's in the bill and the cost of living in the bill. They would like to see the bill killed and focus put toward **SB 303.** He asked them to look very carefully at this retirement option.

**Dan Zorn, Assistant Superintendent of Schools, Kalispell,** spoke against the bill, reading from written testimony.
**EXHIBIT(fcs58a07)**

**John Fuller, State Board of Public Education,** advised they opposed the bill with reluctance as the Governor had been supportive of many efforts to aid education, especially **HB 736.** The board thinks **HB 736** holds great hope for the future. The state board believes the provision regarding the use of federal funds for retirement would eventually project an onerous burden upon local districts and a transfer of tax burden. School districts do not believe the check is in the mail.

**Carmen McSpadden, Montana School Board Association,** advised the education community has huge concerns. She wondered as a taxpayer, community member, parent, and trustee why so much emphasis is being placed on federal funding as part of this bill. Local districts will have to deal with No Child Left Behind. Para-professionals who work for $7.20 an hour will now be required to have two years advanced education. There will be other real costs. Another concern was with the deadline for the levy and having to explain the tax shift to the community. The budget at Anderson School has gone up very little in the last few years, with the exception of added enrollment. She was frustrated at having to ask for a $20,000 mill levy for a school with increasing enrollment. She hoped they table the bill and support **SB 303.**

**Bob Odermann, Great Falls Public Schools,** opposed the bill. He described the effect of the 2 and 1% on his local school district, which has declining enrollments. The major effect would be a $2 million loss of services if levies go down in the second year and $600,000 in the first year.

**Brenda Nordlund, mother and trustee,** advised she is not an expert on school funding, but is a trustee who has been volunteering her time for the last five years. The Helena school district is at the cap. The retirement change will cause a loss in educational services. She asked the committee not to make such a substantial change in the rules under which they have to operate in the next four weeks. She said this is a huge step backward.

**Informational Witnesses**:
***{Tape: 3; Side: A; Approx. Time Counter: 18.4 - 27.3}***
**Amy Carlson, Budget Office**, explained handouts.
**EXHIBIT(fcs58a08)**

**CHAIRMAN TOM ZOOK** remarked that paints a little different picture than what a lot of people would portray.

**Questions from Committee Members and Responses**:
***{Tape: 3; Side: B}***

**SEN. ESP** asked **Mr. Puyear** about his use of the word insidious. He asked if the problem is some districts are up against the cap. The retirement is a different fund and is not under the cap.

**Mr. Puyear** indicated the largest concern is even if there is an increase in federal dollars, the expectations and requirements of the strings attached to those dollars are the insidious part. Within No Child Left Behind there is an entire structure and measurement process for what's called annual yearly progress (AYP). That process, measurement and evaluation of it in rural schools will be unbelievable. They don't have people with the time to be able to do those things. **Mr. Melton's** chart speaks to the issue. In his view, the workload and the requirements in the federal legislation far exceed the money they will receive.

**SEN. ESP** said the issue with the retirement is in the county wide retirement account, it would be an automatic tax increase. If they have the federal money and are capped, they can't vote to cover it; they have to cut programs.

**Mr. Puyear** said exactly.

**SEN. ESP** said it is a shift from local people having to pay those taxes to federal money paying the taxes if they could get around the cap provisions.

**Mr. Puyear** advised since they can't do that, those dollars will simply decrease the services they are able to provide at the same time the federal government will be requiring them to do more. Most schools would gladly give the money back.

**SEN. ESP** asked if there was a way to allow the increased retirement to be paid by the federal government without affecting their cap, if his objections would be much less.

**Mr. Puyear** advised it would go a long ways towards solving the challenges they have.

**SEN. ESP** asked **Mr. Melton** if 0 and 0 were done on the chart (Exhibit 2) without considering the flex fund, what would that reflect in the bottom line.

**Mr. Melton** said he assumed with 0 and 0 the reimbursement money would not be raided to pay for it. The bottom line would be about the same. There would be less budget authority. The 2 and 1 would not only cost the state money, it costs the local taxpayers some money. It expands the budget authority, and that's a good thing. He understood they are paying for the 2 and 1 by cutting reimbursements to local governments in a like amount.

**SEN. ESP** asked if he would play with those numbers and bring it back to the committee. **Mr. Melton** said yes.

**SEN. BALES** asked **Amy Carlson** about how retirements are handled in other departments where federal money is coming in.

**Ms. Carlson** advised in all other places in state government funding that she knew of, all federal funds have to pay not only retirement costs, but also indirect costs at the state level.

**SEN. BALES** asked about the concern about handling federal funds differently.

**Ms. Carlson** replied she didn't know.

**SEN. BALES** said he has concerns about more and more federal money. In the current system where wages to the federal people are being paid with federal monies, and the retirement is being paid by the taxes on local communities, it appeared to him some communities are getting hit a lot harder because of the difference in the amount of valuation in those communities. He thought it was placing an undue burden on some communities.

**Mr. Puyear** indicated he may well be right with regards to the inequities in systems across the state where levies are paid. His concern as an education is schools are strapped and doing the best they can with limited resources. Taking the retirement money from federal funds is a decrease for the local school and what they would have done with those federal dollars.

**SEN. BALES** advised there is great concern about unfunded mandates. He asked if all of the costs that were associated with the federal employees were tallied to the federal government, wouldn't that be better.

**Mr. Puyear** said it would. He referred to the situation with special education where federal initiatives came down and the federal government hasn't picked up their commitment.

**SEN. BALES** said it was something that needs to be done and he could see there were problems with the bill. He hoped they could figure out a way to make this happen because it would be in the best interests of everyone.

**SEN. TRUDY SCHMIDT** asked **Mr. Melton** for his reaction to the charts presented by **Ms. Carlson.**

**Mr. Melton** said he looked at those numbers and 0 and 0 would be about $2.1 more in state funding than a 2 and 1 with the bag of tricks involved in the bill. On the first page of the chart (Exhibit 8), county retirements costs are not discretionary costs, they are mandated. The chart solidifies their opposition to the bill. Entitlement increases are really responsibilities. He disagreed with the whole notion of meeting responsibilities to the children being a negative to the state and the taxpayer, but positive to the district. Additional federal revenue is portrayed as being in the bag, when in fact it's not. The first year is, but the second year is not. They agreed to disagree with the Governor's budget office. Whenever school funding is over-complicated, the public's understanding, respect, and support is denigrated.

**SEN. SCHMIDT** asked about federal funds paying their costs.

**Mr. Melton** advised salaries and benefits for all employees in the state are appropriated and funded by the legislature in **HB 2.** There may be situations in **DPHHS** where those federal funds pay the salary and benefits, that is because the legislature takes the step in **HB 2** of guaranteeing that individual will be there to serve the needs of Montana citizens. With public education, they don't get that guarantee. It is really an apples to oranges comparison.

**SEN. ED BUTCHER** asked if the cap is a fundamental problem because there is no wiggle room.

**Mr. Puyear** advised yes.

**SEN. BUTCHER** asked if it is basically true the cap has been forced upon the state by court decisions.

**Mr. Puyear** said it has.

**SEN. BUTCHER** said the chart shows the cost of the new federal mandate that is coming down whether we want it of not. He asked if Montana education is in such a disastrous situation that they need this.

**Mr. Puyear** said if they are going to be compared to the other states, and if No Child Left Behind is the expectation, they do need those dollars. It is real challenge for them. They are beholden to the federal government for those dollars because of the expectations on a national level. He would match Montana's schools against any in the world, but the federal government is moving in the direction of No Child Left Behind and all it implies.

**SEN. BUTCHER** asked if he would agree that, compared to ghetto schools in problem areas where children can't read, Montana is not in that situation.

**Mr. Puyear** agreed they are not in that situation, but there are some challenges in the state. They have not been successful with every child, and have not met the mandate of No Child Left Behind.

**SEN. BUTCHER** asked how many federal dollars had been put into education since the 1960s.

**Mr. Puyear** said he couldn't answer that.

**SEN. BUTCHER** asked if he would agree there has been billions spent in the nation.

**Mr. Puyear** said certainly.

**SEN. BUTCHER** asked if he agreed there has not been an perceptible increase in student achievement levels in that period of time, particularly in Montana.

**Mr. Puyear** said he didn't agree with that because of the premise behind the book "The Manufactured Crisis." The premise is American education, and he felt the same would be true in Montana education, is serving a larger portion of the community than in years past. People were often out on a job after an eighth grade education in his grandparent's day.

**SEN. BUTCHER** said he was talking about since the sixties. He did not see any increase in the levels of student achievement with all this money coming in, and in some cases he saw a decrease. With all the federal mandates, he wondered if there was time for states to have a "sagebrush rebellion" and tell the federal government to forget it. The state would start handling students on an individual basis. He didn't think Montana schools need this and its probably not going to accomplish any more than it accomplished before. Federal welfare came about because two states were sick and tired of federal mandates.

**Mr. Puyear** said there is strong concern in the education community. Associations across the nation and Montana's own Governor have written letters of concern regarding the requirements and the implications that were discussed.

**SEN. JON TESTER** ***{Tape: 4; Side: A}*** asked if the federal government provides enough money for 100% funding of those programs, or if general fund is necessary to make up the difference.

**Mr. Melton** advised there is general fund money necessary to make up the difference. The federal government is stepping back from the whole concept behind the No Child Left Behind Act, which was huge influxes of money for huge new mandates. Now they're saying they didn't say they would pay for delivering all of this. They said they would pay to assess it.

**SEN. TESTER** asked if he had a choice in funding those programs from the general fund.

**Mr. Melton** answered no. He said it was important to note its not just about the federal government mandates. Although Montana is ranked high, only 2/3 of kids are being reached. They are ranked 7th in the nation on math, but are only reaching 37% at efficient levels. They have a responsibility. It may be in an unreasonable box by the federal government, but with or without that box, they have the obligation to the children. There is still the constitutional obligation to deliver a quality system of basic public elementary and secondary schools.

**SEN. TESTER** asked if it was fair to say if the retirement monies are pulled into the federal funds and the school district is capped, and a portion of the permissive levy is eliminated for the retirement funds, the special ed programs must still be funded because they don't have additional federal funds. In essence if they're capped, they have to cut programs somewhere.

**Mr. Melton** said that is a precise assessment of where they stand. It takes money intended for educating children they're not reaching now, and uses it for tax relief instead.

**SEN. EMILY STONINGTON** asked **Ms. Quinlan** how far the implementation of the federal money has gone and whether the districts have been allocated their amounts for this coming school year for budgeting purposes.

**Ms. Quinlan** said they are looking at a 14% increase from 2003 to 2004. Schools will be notified of those allocations in May.

**SEN. STONINGTON** asked when they finalize budgets.

**Ms. Quinlan** advised they finalize budgets in August.

**SEN. STONINGTON** asked for her comment about the data presented by **Ms. Carlson.** It indicates there is much less impact to the taxpayer under the original form of **SB 323** versus the amended version, and the general fund does better.

**Ms. Quinlan** advised the reason the taxpayer does better under the introduced version of the bill is that more federal money is being shifted for paying benefits which makes less available for programs and services offered by a school district. They are looking at roughly $12 million a year schools currently have for programs, services, resource rooms, programs to help students with reading and math, special ed monies, which would now be used to pay the benefits of the employees who are funded in Title I and special ed. Those are the two biggest programs.

**SEN. STONINGTON** asked what happens if they do not implement the mandates of No Child Left Behind, and if they are incapable of doing it because they don't have any money.

**Ms. Quinlan** advised school districts are still held accountable for yearly progress. No Child Left Behind has a whole scenario for improvement in student test scores between now and 2012. If a school does not meet those criteria, the sanctions under No

Child Left Behind still kick in. The sanctions would still apply in the state, even if a particular school district didn't take the money. Because of state policy, more money has to go towards benefits for employees and less is able to go to the classroom and other programs.

**SEN. STONINGTON** asked if the sanctions apply on a statewide basis.

**Ms. Quinlan** advised they apply statewide and in individual school districts.

**SEN. STONINGTON** asked if they are basically a reduction of funds.

**Ms. Quinlan** sais she was not the best person to answer the question about what the sanctions are. She said school choice options kick in once a school has failed to meet adequate yearly progress.

**SEN. BEA MCCARTHY** asked **Director Swysgood** if under the proposal, Title I and special ed teacher salaries and their retirement are now being paid by the federal government. She wondered at what point they become a federal employee.

**Mr. Swysgood** wasn't sure they'd become a federal employee. When federal money goes away, so does the employee.

**CHAIRMAN ZOOK** asked if we are subsidizing federal dollars with taxpayer and general fund dollars.

**Ms. Quinlan** said the state has a policy for federally funded programs. The benefits for employees that are funded from those programs can be charged to the county retirement funds. Schools are now depending on that money to be able to serve students in the classroom and to pay teachers. To the extent that $11 million or $12 million has to shift over for retirement benefits, schools will have less money available for ongoing services.

**CHAIRMAN ZOOK** thought it could also be said that they are actually subsidizing these federal mandates. The money comes down for certain programs, although he understood there has been talk of the money coming as a block grant.

**Ms. Quinlan** advised that is not how they are seeing the money come now.

**CHAIRMAN ZOOK** said he would argue they are subsidizing those federal positions.

**Closing by Sponsor**:

**SEN. GRIMES** closed on the bill. He said he was glad no one asked **Mr. Feaver** about No Child Left Behind, because the podium is still intact. He noted **Mr. Feaver** is quite livid about what that's doing to the education system. There is a cause and effect relationship between what is done in the classroom in making sure students are given every maximum advantage and all the social implications. There is no doubt it has a tremendous impact on local schools. He cited a study in Utah titled "The West's Education Paradox". They concluded there is a close parallel between the amount of federal lands in the west to the problems the west is having. There is less taxable value to fund education. The caps in the bill as amended are an issue, but the bill as originally introduced by the Governor had the 2% and the 1% increase in the schedules that used backfill to get around that. He liked the amendment to grandfather in the current positions. It creates a problem, however, for many school districts are up against the cap because of **HB 667**. He didn't know how many school districts that is or how that plays out. He emphasized the Governor intended to protect Montana taxpayers from potential explosions and windfalls in federal monies that would create additional subsidies on the part of local taxpayers. At the same time, she wanted to make sure schools were protected by the entitlement increases. He felt there was an appropriate balance. It is up to the legislature to figure out how to implement it. He thought the issue of the status of the federal funds needs to be researched. The other issue is how **HB 124** was used in the current bill and whether that is appropriate. This is an important policy decision. It is incumbent upon them as elected officials to make a change in how they fund the direct cost of implementing federal programs. If they are having problems with federal programs, it is another federal mandate to speak to the congressional delegation about. At them same time, the impact to the local taxpayer must be mitigated.

## HEARING ON SB 267

**Sponsor**: **SEN. COREY STAPLETON, SD 10, Billings**

**Proponents**: **Dave Puyear, MREA**
**Lance Melton, Montana School Board Association**
**Will Hammerquist, Associated Students MSU**
**Jeremy Seidlitz, MSU Billings**
**Sarah Cobbler, Associated Students University of Montana**

**Opponents**: **Eric Feaver, MEA-MFT**

**Opening Statement by Sponsor**:

**SEN. COREY STAPLETON, SD 10, Billings,** advised he represents the only school district in the entire country last year whose teachers refused to go to work. He suggested the average teacher in his senate district making $43,000, makes more money in nine months than the average constituent in 24 months. He suggested higher paid teachers do quite well. He walked the picket lines with husbands and wives with seniority making $80,000- $100,000 a year as a household and working three out of four seasons. Those folks are not who he is concerned about. **SB 267** establishes a teacher signing bonus. **EXHIBIT(fcs58a09)** The second fiscal note says the program would add 1% to total spending on education. He explained the chart. (Exhibit 9) The average teacher in his area makes $43,000. He stated he is not a socialist, but recognizes the strengths and merits of collective bargaining and the need of it. By giving new teachers $5000 in the first year, $3000 in the second year, and $2000 in the third year, right up until tenure for a total of $10,000. They can flatten out the pay scale before collective bargaining takes hold. Teachers leave the state because they have student debt, and the average amount of debt is $10,000. He carried a similar bill in the last session that was not specific to teachers. This is targeted to a critical issue. The result of the strike in Billings is new teachers will be let go. The bill will protect new teachers, they can pay off their college loans, and stay in the state. They looked at loan forgiveness, but that sends the wrong message of accountability. Those who put themselves through school would be penalized. The bill addresses 110 students on average. It would be implemented in **HB 2** and sunsets in four years. It would directly try to get 500 new teachers signed up in critical areas and rural areas. The other option uses less than $1 million to help 110 people, or less than two teachers per county in the whole state. He suggested this is a real tool. He said they could not afford to deal with 3 years and above but they could do something for those people before that. They can get those loans paid off and reward everyone equally, not just those with continuing debt, but those who put themselves through school. They can reach four times as many people as another option does.

**<u>Proponents' Testimony</u>**:

**Dave Puyear, MREA,** strongly supported the measure. He urged the committee to study who's speaking as proponents and opponents and their perspective. **MREA's** members are teachers, administrators, and trustees. There is a crisis in the state when it comes to recruitment and retention. It was documented as a crisis in two separate reports commissioned by the **Board of Public Education.** Over 70% of Montana graduates leave the state as soon as they get the degree. Of the 70% that are leaving the state, 60% don't even bother to write to **OPI** and get a certificate in Montana. ***{Tape: 4; Side: B}*** A crisis requires drastic measures and needs to be addressed now. He did not recall receiving a document from another state regarding a loan program; most of the information he received are about bonus programs. It is powerful tool and helps with student debt. Students are coming out of universities with debt in excess of $17,000 and that is why bonuses are attractive and are being used effectively by other states to attract students from Montana. They appreciate the efforts of other bills in the legislature, but there is an element of unfairness in some of those. Signing bonuses are used in various areas of society when a crisis occurs. He urged support for the bill.

**Lance Melton, Montana School Board Association,** advised they discussed some issues with the sponsor of the bill, and he suggested addressing the issue of recruitment. Recruitment is a very significant issue, and 700 out of 900 new graduates every year are leaving the state. He didn't know how many of those fit categories within the bill and how many fit categories not addressed in the bill. They thought it would be good to provide this kind of incentive to people who don't have tenure. An annual bonus every year for three years will take them to tenure, which is termination only with cause. He stated support for the concept of the bill.

**Will Hammerquist, Associated Students MSU,** advised the average student loan debt was 17,000 in 2000 and has since risen to $21,200 in 2003. Fewer students are choosing to become teachers, and fewer of those are likely to stay in the state. From 1991-1995, an average of 68% of **Montana State University** education graduates stayed in state. From 1997-2001, that number had declined 50%. From 1995-2000, the number of **MSU** students majoring in education declined 10%, while the overall student body increased 4%. He urged consideration of **SB 267** as a means to address this. At the campus level, they are working to address this by holding a Montana schools only teachers fair.

**Jeremy Seidlitz, MSU Billings,** advised as a part-time lobbyist he found it a challenge to be in Helena three days a week and back in Billings four days a week. On one of his return trips to Billings, he happened to be there when a student teacher seminar met. He asked them if a loan repayment program or a bonus program would better benefit them. The majority favored a signing bonus.

**Tom Giarelli, Forward Montana,** rose in support of **SB 267.** The bill is an additional 1% to total education spending and it is their belief this may be one of the most important parts of education spending. By doing this, the best and brightest teachers are kept in the state, or they are being given the option of coming back to teach here. The ones that most directly benefit from that are the children taught by these teachers. The universities in Montana produce some of the best teachers in the country. That is why they are being recruited by other states. This is a tool to keep the best and the brightest teachers in Montana.

**Sarah Cobler, Associated Students University of Montana,** advised in 1992, the educational units of the university systems received $115 million from the state government. In 2003, the university system education units were appropriated approximately $113 million. As a result, tuition is increasing. In the last biennium at the **University of Montana**, tuition went up 33%. Regarding loan debt, 65% of all students borrow, and that loan debt is a little over $21,000 by graduation. In 1993, 75% of newly educated teachers stayed in the state. In 2003, 25% from the **University of Montana** stayed. She hoped the problem would be addressed.

**Opponents' Testimony**:

**Eric Feaver, MEA-MFT,** advised he represents all the organized teachers in the state of Montana in Kindergarten through Higher Education. He felt he had some background in the business of compensating teachers. As **Mr. Puyear** would have them know, they should be wary of his perspective, since he represents teachers who are organized. **SEN. STAPLETON,** in his remarks, became the third legislator in this session to call him a socialist by implication. He didn't know if bargaining units and unions are socialist or not, but **SEN. STAPLETON** shares the distinction with **REP. JOE BALYEAT,** and **REP. KATHLEEN GALVIN-HALCRO,** a member of their union, on issues completely unrelated to this one. When the **MEA** struck last fall, a regrettable act, it was not the only unit of teachers on strike in the nation. It did become the only one by the end of that strike. Teachers do not work nine months. They are twelve month employees who get paid for nine or ten months. They work very hard on professional development as they must in order to retain their certificates and expand their skills. He said **SEN. STAPLETON** didn't walk the picket lines in Billings, he crossed them. He didn't know what it means to flatten out the pay scale for new hires who don't exist yet in the state of Montana. The bill provides not one penny in bonus to anybody currently teaching in the state of Montana. The crux of the problem is explaining to those hired this year, last year, or before, they get nothing. People who can be from any place in America will get a bonus if they just park in Montana next year. He asked how that could meet any semblance of fairness. He referred to the handout and didn't know what it means to talk about district savings after signing bonuses. He agreed the fiscal impact of this to the state is $16 million over the four years of its presumed existence, but he didn't get the savings part. He argued they would create an unfunded mandate on school districts to continue to provide the salaries of those new hires who get the bonus forever. He had no clue where the savings come from. There is no funding source. There was an attempt to take dollars from the **Workers Comp** surplus old fund in **HB 363.** It doesn't have a penny for **HB 267** in it currently. In the complex negotiations going on with **HB 363**, that money is going to fund **HB 360**, in part fund **HB 2**, and fund the state pay plans proposed in the **State Administration Committee.** He said it could be argued taking those surplus moneys from Workers Comp, is robbing Peter, the state pay plan, to pay Paul, new hires that don't exist in potential teaching positions in the state of Montana. He held the only place they could get the money was from somebody else's program. It would be $6.5 million over the biennium, and maybe another $10 million in each year of the existence of the program. That money will come from **DPHHS**, the state pay plan, the **University System**, and K-12. Not one penny of the signing bonus goes to a school in the state. The school gets nothing out of the bill for their budgets. He said it is strange times when a union leader stands before the committee that holds things in balance and says, "this money smells a bit like a rotten fish in Denmark and don't you dare do it." They have shown the legislative leaders of both House and Senate a number of ways this legislature could fund schools for less than what the Governor has proposed, without doing damage. One of those very small ways is **HB 107** that was heard in **Senate Education** and sits there. He held **HB 107** will help recruit teachers by paying off their debts. He found it remarkable that anybody could argue that people who acquired debt in school are somehow lazy and just didn't apply themselves well. Somehow or another it's a socialist plot to provide them a loan reimbursement, and that unfairly discriminates against those who didn't acquire debt to go to school. **HB 193** is still in play and creates a new entitlement in the school funding formula and should have been there back in 1993. In those days, enrollment was still growing. The idea was enrollments would continue to fund schools. Enrollments are going away, but schools still have fixed costs. **HB 193** recognizes those fixed costs and creates a new entitlement for a full-time certified educator and gives the money to school districts, not the individual. It helps the school district budgets. He was confident most of that money would find its way into salaries. Meanwhile, the serious flaw in the original funding formula would be addressed in **HB 667. HB 302** would provide a school-wide school employee health care pool and save the state, school districts, and employees millions of dollars.

He didn't understand why folks don't see that as an opportunity to share risk with all the covered school employees in the state and to create provider opportunities that aren't enjoyed in any rural school districts. One of the opponents to the state-wide school employee pool said he would like to provide discounts in his community, Billings, but didn't want to provide them to Park City and Terry. Legislators could make a difference on how schools are funded and then have dollars on the table to provide salary increases for teachers. There are school employees currently who begin at $19,000 or $20,000 who are looking at $1100 and $1200 a month for full family medical; the school district pays $200. If those family rates could be decreased to $700 or $800 a month, would make a difference in who comes to the state and who stays. **MEA-MFT** has never in its history stood before any tax committee and said don't tax us, tax them. It is ridiculous to provide a bonus to teachers and say you don't have to pay taxes on it. This bill provides a tax free income. If a $5000 bonus is to be provided, it should be taxed. He urged looking at the language at the bottom of page 3, which was struck in committee. What was struck would make this exempt from salary provisions. The state legislature has repeatedly turned down requests made by **SEN. SAM KITZENBURG** for a statewide school employee salary schedule. He thought maybe the legislature is ready for a statewide school employee salary schedule, because they are now doing the work of local school districts in a way those districts never could have imagined. He advised the way to recruit and retain teachers is by paying them better salaries, not just those who arrive tomorrow but those who are here today. Help pay off their loans, give a sure source of state funding, recognize fixed costs, and provide health care, and they will recruit and retain lots of teachers. He said **SB 267** is a "scam" and he urged a no vote.

***{Tape: 5; Side: A}***

**Questions from Committee Members and Responses**:

**SEN. SCHMIDT** asked **Ms. Cobble** where she would prefer the money to go is she had her choice.

**Ms. Cobble** stated they are over $8 million below the Governor's budget and thought the money might do better for all students if it goes to the **University System**.

**SEN. SCHMIDT** asked in what way.

**Ms. Cobble** said most of the money has been coming out of the educational units, which is often referred to as the "lump sum". It is the student's view that when the monies are appropriated to the lump sum, it decreases the need for increased tuition, which gets them in the loan debacle in the first place.

**SEN. SCHMIDT** asked how Montana compares in the area of signing bonuses. She asked if it is tax deductible and how other states handle bonuses or incentives.

**Bob Vogel, Montana School Boards Association,** advised they can get that information. He wasn't familiar with the tax deductible nature of those signing bonuses, but they know of a number of states that have signing bonuses to try to attract recent graduates.

**SEN. SCHMIDT** asked about the chart and district savings after signing bonuses.

**Mr. Vogel** deferred the question to the sponsor.

**SEN. STAPLETON** advised the mechanism of the 300 bonuses to new teachers that are tied to a retiring teacher are the savings to the district. The accumulation of the savings over the four year period of the bill, $37 million, would go into the districts because two new teachers can be hired for what experienced teachers are paid.

**SEN. SCHMIDT** asked **Mr. Feaver** to comment.

**Mr. Feaver** was delighted to hear **SEN. STAPLETON'S** explanation as he had no prior understanding. Somehow a signing bonus precipitates a retirement in the school community. There is no way to know that; this is not a retirement incentive proposal such as some of the school districts have done themselves. The Helena school district is hoping to encourage 52 teachers in Helena to retire in the next year in order to pay for the salary supplement it has just bargained. This is no bargaining deal, and there is absolutely no way to know how many people with 26 years of experience are going to retire to save money, and if they do, it won't be because of this bill. There is no nexus between **SB 267** and any savings from teachers who might retire.

**SEN. BARKUS** advised he was new around here and may regret asking this question. He asked **Mr. Feaver** about his comments and veiled threat about those who are new being wary of him and the later comment regarding picket lines and those who cross them. The later statement with reference to this bill was "you don't dare pass this."

**Mr. Feaver** said he made no veiled threats to anybody. The first comment was in response to **Mr. Puyear's** forewarning that he was about to appear before the committee. **Mr. Puyear's** notion was the committee should take under advisement the remarks made by those who would speak to the bill and look at the positions they hold. He didn't consider that any indication about power at all. If he had power, this bill wouldn't be here. He represents people with a serious stake in teacher compensation, and that was the forum from which he was speaking. **SEN. STAPLETON** did what he had the right to do, and he took his children to school during that strike. The vast majority of students stayed home. The only schools that were open were elementary. That was in no way anything other than to correct the impression that **SEN. STAPLETON** walked the picket lines. In their world, when you walk the picket lines, you carry a picket sign and are protesting and making a statement. Crossing the picket line is not walking the picket line. In terms of a veiled threat, he didn't think he made a veiled threat to anybody. He declared **SEN. ZOOK** has ignored them all for years. They are neither veiled or any other kind of threat. This is how he approaches the business.

**SEN. BARKUS** asked him about the comment "you don't dare pass this bill."

**Mr. Feaver** said he believes they don't dare pass this bill. He thinks the bill gets right in the face of everyone currently teaching in the state of Montana. He believes those folks will feel very unhappy about what's going on and the legislature might hear from them. That's not a veiled threat, that's a statement. It about morale of the people who've been delivering quality public schools in classrooms all over the state. Every one of them is cut out of this bill.

**Closing by Sponsor**:

**SEN. STAPLETON** closed on the bill. He advised everyone who came to the table gave something up. The expense in this biennium is the reason they chose an immediate effective date instead of a retroactive date. He addressed the "reckless" comments made by **Mr. Feaver**, and stated his children did not go to public schools and honored the strike. He said he would expect an apology. There are eight teachers in his immediate family; with his only child that is in public education, they honored every day of that strike by keeping her home. He found **Mr. Feaver's** comment reckless and inappropriate.

**Mr. Feaver** apologized if he misrepresented **SEN. STAPLETON** in that case. He said he was significantly sorry, and that was not the information that was shared with him and he would certainly check with the sources on that matter.

## HEARING ON SB 424

**Sponsor**: **SEN. LINDA NELSON, SD 49, Medicine Lake**

**Proponents**: **Kris Goss, Governor's Office**
**Kathy Fabiano, OPI**
**Bob Vogel, Montana School Boards Association**

**Opponents**: **None**

**Opening Statement by Sponsor**:

**SEN. LINDA NELSON, SD 49, Medicine Lake,** advised she was carrying the bill for the Governor's budget office, and it missed the deadline to be pre-introduced. She chaired the **Interim Committee on Education and Local Government.** The bill would implement the recommendations of the Governor's **Advisory Council on School Funding.** It specifies how to apply the block grants from **HB 124** into the school funding formula. The first section of the bill adds the terms of facility guaranteed mill value for ANB to the definitions and is the formula for applying it. Section 2 increases the amounts of ANB for school facility entitlements. Section 3 changes the word "statewide" to "facility guaranteed mill value" for the calculation for entitlement amounts. Section 4 removes the weighted rider-ship from the definitions, as this will no longer apply. Section 5 applies to the reimbursement for transportation, and they are the same amounts that were in **HB 3.** This would simplify that issue. Section 6 gets into block grants; a school district gets one block grant that is divided into three parts: general fund, transportation, and a combined fund. The general fund block grant will be an average of the amount received in 2002 and 2003, and it will increase by .76% in fiscal year 2004 and beyond. Half of the transportation grant will go to fund the transportation schedules. The block grant will be increased by .76% in 2004 and beyond. The combined fund block grant is equal to the average amount for 2002 and 2003 for bus depreciation reserve, building reserve, non-operating, and adult education funds. This will be increased by .76% in 2004 and beyond. This grant may go into any budgeted fund throughout the districts.

**Proponents' Testimony**:

**Kris Goss, Governor's office,** advised the council thought these were very good ways to work on **HB 124** block grants. It specifically deals with the school facility funding, transportation funding, and combining all the other block grants. By increasing the school facility funding and eliminating the block grants, it is increasing the effort to pay up to 141% of average. It simplifies the rate structure and makes sure they can increase with certainty the amount of revenue that a district can receive for transportation. Districts will be able to combine all of the other block grants and move them around into those various funds. The citizens of Montana spoke extensively on this bill during the interim.

**Kathy Fabiano, OPI,** advised **Superintendent Linda McCullough** supported the council's recommendations that are implemented by the bill. Those recommendations are intended to spread the burden of funding public schools more equitably among property taxpayers, and to simplify the transportation funding structure. One of the problems with the current **HB 124** block grants is that it doesn't respond over time to shifts in school district financial resources and priorities. There is no new funding for schools in this bill. By redirecting the monies that are presently distributed as block grants for debt service, this proposal will target the monies for school districts that have general obligation debt. Regarding the transportation provisions in the bill, **OPI** proposed similar legislation last session and again this session as a way of simplifying an overly complex method of determining pupil transportation reimbursements to schools. **SB 424** contains those same simplification provisions. The current accounting system for pupil transportation requires a school district to count and report to **OPI** the number of riders, type of rider, mileage, bus capacity, and type of route for approximately 2000 bus drivers in Montana. **SB 424** will base the reimbursement solely on the size of the bus. Doing so will simplify the district funding process and remove an unfair financial penalty for some buses. Under current law, districts count their high school riders for one week in November to determine the reimbursement rate for that high school route. Basing that district's reimbursement on the number of kids that ride during one week in November is a problem because even though there may not be enough kids riding the bus during that one week to fill it at least half full, the bus still has to accommodate all the kids living on that route when they do ride. It still needs to travel the same number of miles. It is also a problem because it takes place after a district's budget is set. The district may set it's budget assuming the bus will be eligible for a higher reimbursement rate, but then if during that count week the bus is less than half full, the district at that time has no way to adjust their revenue budget to reflect that lower reimbursement rate.

**Bob Vogel, Montana School Boards Association,** advised the bills deals with facilities and transportation and they appreciated the sponsor bringing the proposal forward. It was discussed and crafted over the interim. The bill demonstrates the complexity and challenges faced in school districts. According to the fiscal note, **SB 424** will increase the number of districts eligible for a state facility reimbursement--up to 128 districts in FY04 and 138 in FY 05. They believe the bill will help address school district facility needs. The bill makes positive changes in school district transportation and the school district state transportation payment will be based solely on the size of the bus. The rate increase is something they have been looking for since about 1991 to recognize some of the increased costs of fuel, labor, and maintenance. The upper end of the rate structure declines by about one cent per mile. He hoped they would recommend do pass.

**Opponents' Testimony**: None.

**Informational Witnesses**:

**Amy Carlson, Governor's Budget Office**, advised she would answer any questions.

**Questions from Committee Members and Responses**:

**SEN. ROYAL JOHNSON** asked if when the subcommittee finished their work, they had given back to K-12 more than the Governor's budget had asked for.

**Ms. Fabiano** said that is correct.

**SEN. JOHNSON** asked about how much it is over the Governor's budget.

**Ms. Quinlan** said **HB 2** as it left the subcommittee had 5.2 more in the general fund distribution to schools than the Governor had proposed. The Governor had proposed to fund school facility payments out the **Treasure State Endowment Program.** The subcommittee funded the present law level of school facility payments with general fund money. That is the reason it is about $2 million higher.

**SEN. JOHNSON** asked if she had followed all of the bills which add more money into K-12 education, including this one. He asked how many more dollars, if they passed every one of these bills, would be added into K-12 education.

**Ms. Quinlan** advised this bill does not cost any more. Two other bills gives a 2 and 1% increase. She indicated she would have to work on that.

**SEN. JOHNSON** asked if the transportation costs are already covered.

**Ms. Quinlan** advised the bill proposes increased rates for transportation, but it's paid for with a redistribution of **HB 124** block grants that are currently going to a district's transportation fund.

**SEN. SCHMIDT** asked about **SEN. STORY'S** bill and how the bills were related.

**Ms. Quinlan** explained the bills don't interact. **SEN. STORY'S** bill corrects county retirement funds. **SEN. NELSON'S** bill deals with pupil transportation funding and school facilities.

**SEN. SCHMIDT** said both are talking about the transportation block grants, but they still don't relate.

**Ms. Quinlan** thought **SEN. STORY'S** bill only looked at county retirement block grants. Pupil transportation is funded with state monies, county monies, and district monies. There are **HB 124** block grants going to counties to help lower property taxes for the county share of transportation. There are also school district block grants in **HB 124** that help reduce the property tax requirements for the school districts for transportation. **SEN. STORY'S** bill looks at the county side of that, and this bill looks at the district side.

**SEN. ESP** asked **Ms. Quinlan** about her statement the transportation portion of this bill doesn't cost any more. He asked if it costs more for local taxpayers if the district chooses to use that money in a different way.

**Ms. Quinlan** advised there will be redistributions and if a school district gets more through the unscheduled transportation costs, they may be able to lower their local value. It will play out differently in different school districts. **HB 124** block grants will be taken away from school districts and given back through the transportation funding formula.

**SEN. ESP** asked if they were taking the **HB 124** block grants for transportation and then giving back general fund for transportation.

**Ms. Quinlan** said yes.

**SEN. ESP** asked if they were not required to raise more money with a local levy to replace that.

**Ms. Quinlan** explained there may be shifts in some school districts; some will see an increase and others will see a decrease depending on how they're affected by the riding capacity, etc.

**SEN. ESP** asked if the effect statewide of the shifts be about a $1.7 million tax increase to local people.

**Ms. Quinlan** said she would refer that to **Ms. Carlson**. **SEN. ESP** advised he would wait.

**Closing by Sponsor**:
***{Tape: 5; Side: B}***

**SEN. NELSON** closed on the bill.

**ADJOURNMENT**

Adjournment: 12:46 P.M.

_________________________________
SEN. TOM ZOOK, Chairman

_________________________________
PRUDENCE GILDROY, Secretary

TZ/PG

**EXHIBIT(fcs58aad)**