

**MINUTES**

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

**COMMITTEE ON EDUCATION**

**Call to Order:** By Senator Blaylock, on January 13, 1993, at 1:04 p.m.

**ROLL CALL**

**Members Present:**

Sen. Chet Blaylock, Chair (D)  
Sen. Harry Fritz, Vice Chair (D)  
Sen. Bob Brown (R)  
Sen. John Hertel (R)  
Sen. Dennis Nathe (R)  
Sen. Spook Stang (D)  
Sen. Daryl Toews (R)  
Sen. Mignon Waterman (D)  
Sen. Bill Wilson (D)  
Sen. Bill Yellowtail (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Eddye McClure, Legislative Council  
Sylvia Kinsey, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 79, SB 99  
Executive Action: SB 99, SB 22, SB 28

**HEARING ON SB 79**

**Opening Statement by Sponsor:**

Senator Gage, Senate District 5, Cutbank, said SB 79 was the result of contacts during the interim. A school district had a situation where an employee was being investigated for child abuse, and the administrator of the school was not aware that this was going on. He found out about it after the fact, and in checking around the state to see if he should have been notified of the situation, found nobody who knew of a provision that he should have been notified. The superintendent involved was concerned and felt that if that is happening in regard to an employee in his school he should know so the actions of the

person could be monitored more closely before a problem could develop in his school.

**Proponents' Testimony:**

Harley Warner, Montana Association of Churches, said MAC had adopted a position paper concerning children in society. One of the provisions of that position paper is that they favor legislation that will prevent the abuse of children. They felt this legislation would go a long way to do that. They recognize there may be some problems but feel those school administrators will protect the civil rights of those accused.

Don Waldron, Montana Rural Education Association said his organization favors this legislation. They are concerned with what their employees are doing, but also the liability of the district when they are not informed if something should happen.

Bruce Moerer, Montana School Boards Association, said they support the bill. He felt there is some concern by school districts if they have an employee who is guilty of child abuse. Generally if a district is going to take any kind of action it has to be related to a classroom, but in the area of child abuse you may want to take some additional action. He was concerned about child abuse that happened outside the classroom where the school did not have any way to obtain information and criminal investigators are prohibited from giving out that information.

**Opponents' Testimony:**

Phil Campbell, Montana Education Association, said he was speaking in opposition to this bill. He felt it was hard not to take this particular bill personally because school personnel are singled out. He personally felt anyone who was a child abuser should get the maximum punishment, but if someone is being investigated or accused, and their employer is told, they are then subjected to an invasion of privacy. If the accused is abusing children at school, he had no problem with the bill, but an alleged abuse not connected with the school was another matter. He said he had talked to a psychologist who was dealing with family troubles and abuse, who told him there was no pattern of abuse at home and then taking it to work. If anyone thought this was a good idea, then why shouldn't everybody be included who dealt with children. Day care workers, people in the hospitals who work in the children's ward, boy scout leaders etc. If school employees are a danger because they are accused of abuse, then everybody else who works with kids should be subjected to the same thing. He did not think this was a problem, and did not feel this bill was the way to go.

Scott Chrichton, American Civil Liberties Union, suggested changing the language from a person "suspected" to a person "convicted". His testimony is attached. (exhibit 1)

**Informational Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Waterman asked Senator Gage how the monitoring would be handled if the superintendent was under investigation. Senator Gage said the committee may want to put something in the bill to cover that.

Senator Brown asked Senator Gage how he would feel about an amendment at the bottom of page 2 to delete "suspected" and insert "convicted" and Senator Gage answered that was like "shutting the barn door after the horse was out". He assumed that conviction would require court action and not just investigation and there was no protection for the kids in that interim.

Senator Brown said Mr. Campbell had mentioned that a teacher's license is pulled if they are convicted. He asked if someone was convicted of child abuse would they still have a license to teach and Mr. Campbell said someone had to bring the action, but agreed that it was grounds to revoke a license. Mr. Campbell said he believed the law stated that if a person were convicted of a felony it was grounds to revoke a license.

Senator Nathe said that not only includes teachers, but janitors, etc. He said they had an "over active" social worker and a janitor about lost his job because of charges brought. He had to spend \$15,000 clearing his name so he could keep his job.

Senator Waterman asked Senator Gage why this bill only addressed school employees, why not people who were working at group homes with young people, day care centers, etc. and Senator Gage said if the committee wanted to broaden it that far he would not object. This issue was brought to him by school personnel and the educational people and that is what the bill was drafted for, but if broadened he would have no problem with it.

Senator Nathe said we are focusing on children on one end, and on the other end there are nursing homes and senior citizens, and senior citizens get abused by these kinds of people also.

Senator Waterman mentioned the law suit at the Boulder facility and the problems there with abuse.

**Closing by Sponsor:**

Senator Gage closed by saying you could probably find a psychologist who would differ with the opinion that there is no correlation between the abuse of kids and a carry over to the work place. He said he would prefer if someone was being investigated for child abuse that they not be dealing with other

people's children as a part of their vocation.

HEARING ON SENATE BILL 99

Opening Statement by Sponsor:

Senator Lynch, Senate District 35, Butte. said SB 99 is a bill that must go through a bill form rather than just clean up language. None of our institutions of learning are under the quarter system any longer. The Intern program through the Legislative Council is based on the minimum of a quarter and now a semester.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Waterman asked if the bill could just say at least one "course of study". She asked if this would be too vague. Ms. McClure said where they usually had one class, so unless a semester has more than one class in state government it would be covered.

Closing by Sponsor:

Senator Lynch closed.

EXECUTIVE ACTION ON SENATE BILL 99

Motion: Senator Yellowtail MOVED SB 99 DO PASS.

Discussion: Senator Fritz said he was not sure one semester course in state government is offered in all the universities in Montana. He asked why this bill couldn't just say "a course in government". He said he was sure at least one course in government was offered at the freshman and sophomore levels at all the units of the University System. Interns must be a junior, would have taken the course, and that would mean no one was excluded because of the requirements.

Motion/Vote: Senator Fritz MOVED TO AMEND SB 99 to say at least one "course in" government. The MOTION PASSED unanimously.

**Motion/Vote:** Senator Yellowtail included the amendment in his motion to DO PASS AS AMENDED. The motion PASSED unanimously.

**EXECUTIVE ACTION ON SENATE BILL 28**

**Motion:** Senator Yellowtail MOVED TO AMEND SB 28. (exhibit 2)

**Discussion:** Senator Hertel asked for a review of the bill since he had not been present at the hearing. Senator Blaylock gave him a summary of the hearing.

**Vote:** The motion to amend SB 28 PASSED unanimously.

**Motion/Vote:** Senator Brown moved SB 28 DO PASS AS AMENDED. The motion PASSED unanimously.

**EXECUTIVE ACTION ON SENATE BILL 22**

**DISCUSSION:** Senator Waterman said the reason this bill was brought before us was to correct language on page 2. She had no problem with that part of the bill, however she had also looked at a bill that Rep. Daily had in the House that is in regard to rehiring teachers within four years if they had been terminated for financial reasons. We are really getting into an area that is traditionally being taken care of in contract negotiations and she was concerned about who to rehire if the levy which passed was a lesser amount than the original defeated levy. She felt there should be a process, set up through contract language, giving the guidelines for who would be rehired, when to offer the contract and how long they would have to respond. She was not comfortable putting all of that in the state law and was not sure OPI would like that new responsibility. She felt this should be handled at the district level through negotiations and suggested striking all the new language on pages three, four and five, and then pass the bill.

Senator Brown asked what was left in the bill and Senator Waterman said the amendment on page 2, which was the reason the bill was originally brought to us. There was a Court decision that brought into question whether May 1 was applied in all cases.

**Motion to Amend:** Senator Waterman MOVED TO AMEND SB 22. (exhibit 3)

**Discussion:** Senator Waterman said she believed there were instances when trustees abused their prerogatives and do terminate people for financial reasons, then cut the program and hire someone else for another program. She did not think this bill was the solution for that problem, it should be negotiated.

Senator Hertel asked what happens if something occurs after May 1. Senator Waterman said she believed there is a financial reason clause where you can terminate for financial reasons and felt that was probably the only reason that could occur after May 1, which would cause you to dismiss teachers. Mr. Moerer said he believed there is a clause in the non-tenure teacher termination section that says you can terminate after May 1 for financial reasons. You may not terminate a tenured teacher after May 1 for financial reasons.

Senator Blaylock said he thought the language on page three, four and five should be included in the bill. He agreed with the language originally proposed by Senator Waterman which said "must be offered a contract", but did not agree with this amendment.

**Vote:** The motion to AMEND SB 22 PASSED, 6 members voting NO, 4 members voting AYE, roll call vote.

**Motion/Vote:** Senator Waterman MOVED SB 22 DO PASS AS AMENDED. The motion PASSED with Senators Wilson, Yellowtail and Wilson voting no.

#### DISCUSSION ON SENATE BILL 32

Discussion was held on SB 32 and Ms. McClure said the amendments are not ready. Senator Blaylock said this bill came out of their interim committee to use Guaranteed Tax Base (GTB) for capital outlay, the price tag is big and if the bill is held in committee he was not sure we could improve anything. In the last special session we had to put the special legislation through and probably the worst case was Plentywood where the school building had burned down and they could not sell bonds because the Supreme Court had said all bonds after July 1, 1993, in effect, were suspect. If we do not pass SB 32 or something like it to equalize the costs of school buildings, he felt the Supreme Court would again deny sale of bonds, or if they can sell bonds they will be at an exorbitant rate. He said we do not have a lot of choices, there is a proposal on power equalizing that is being discussed, but he did not know how it works but has an appointment with Madalyn Quinlan, OPI, to have it explained. There has been a lot of work on SB 32 and believed it was the best the committee could come up with.

Senator Brown said the Court case is in process here in Helena at the present time. You could argue that if we passed this bill through the entire Legislative process that it might be taken as a signal, if it should happen before the case is decided, that the Legislature is attempting to address the problem. The problem with that reasoning is that the very mechanism used in equalizing the rest of school funding, the GTB concept, is what is being litigated. We do not know where we get the money to pay for this, assuming it were passed, he did not see any point in getting in a big hurry about it, it should not get trapped behind transmittal, and he felt the committee could hold it until it

gets close to transmittal time, and then move it to the House. Senator Blaylock agreed it should go over to the House before the transmittal deadline.

Senator Stang said last session he carried a House Bill that calculates the GTB in a different manner. Before he could take action on this bill, he would like to know if the interim committee took a look at that formula for figuring out the GTB and if they did, what the effects would be. If they did not take a look at it, he would like another week or so to look at the facts and figures in that bill. He said it almost went through House Education Committee, but since HB 28 had only been in effect for six months, the committee was reluctant to start all over.

Senator Brown asked if that was the "weighted formula" bill and was told yes. Senator Brown said that would almost take another hearing and perhaps we should take time to do it. That is a different concept than we have in this bill. He said they debated the weighted average concept during the interim and decided to go this route instead, but this committee may want to listen to the other side of it.

Senator Toews said he would like to listen to it, since he has real problems with SB 32. He realized something must be done, but was thoroughly convinced that the OPI numbers are way too low.

Senator Brown said there was sort of a small school versus large school argument.

Senator Fritz asked if Senator Toews felt the numbers in the fiscal note with this bill are too low and it would cost more. Senator Toews answered yes, it seemed the pressure was on the school districts that will be getting a considerable amount of tax relief. He pointed out if the funding was not at the expense of the local taxpayer there was more pressure to accept it.

Senator Brown did not feel it would be fair or right for this committee to entertain an amendment to make drastic major surgery on this legislation and just talk about the amendment.

Senator Blaylock said he would not want such a drastic amendment, either. He did feel there are safeguards against school districts going wild and saying they were going to build because they could take advantage of the GTB, because the taxpayers in the local districts have to vote for those bond issues, and while they would get help, those taxes would go on their property. He said he could not see the taxpayers voting for a property tax increase.

Senator Yellowtail asked Senator Stang if he had requested this bill again. Senator Stang said no, and did not know of anyone doing so. Ms. McClure said she had copies of the bill.

Senator Nathe said as long as we were going in to use this for capital construction he would like to offer the amendment in this bill rather than straight GTB. He pointed out that the 66 schools that brought the first suit are back suing us because we have under funded them, even though the beneficiaries were the ones with the largest numbers. He thought even if people did not want to put such a drastic amendment on the bill, a good discussion of the former House Bill would bring a lot of people up to speed on the whole school equalization issue.

Senator Yellowtail said perhaps we should introduce a bill like that again for the hearing to be formalized, and introduce it as it relates to capital improvement rather than to everything.

Ms. McClure said when they left the interim committee on joint funding, the committee decided to go this way and if the group wanted to do the weighted formula as it related to capital outlay, then they could do amendments. If that were done, it would be a massive amendment to this bill, and it has been requested to use the former House bill to understand the concept, and if the committee wished to do an amendment to change it to a weighted formula for GTB for the capital outlay, the Council would do so.

Senator Stang said that would be good, but to really understand the concept of this we have to get the information from the OPI that shows how this formula affects every school district and that will take time. He said it took him until mid-session last session to get that information, but possibly his bill from last session might be introduced at a later date and get both bills to the House or kill one of them here.

Senator Waterman asked if Senator Stang was proposing we use the weighted formula just for capital outlay or go back and do it for everything and was told just for capital outlay. Senator Waterman felt a cleaner way to handle the matter would be to put in a bill draft request now for the other one and then we can decide on this bill knowing the other one is available as an option. She had real problems with putting the weighted formula concept into this bill.

Senator Brown asked what was the easiest for the staff. Ms. McClure said probably a separate bill draft. When she checked with Andy Merrill, who worked on both bills, she was told that to amend this bill would be a very long process. Ms. Merrill suggested talking about the concept and giving the committee a copy of last year's bill.

Senator Blaylock said he felt it would be better to put it in as a separate bill. It was discussed in the interim committee and that committee decided to go this route.

Senator Nathe pointed out there were two members who were opposed to the concept in this bill.



Senator Stang asked if there was any information passed out during the hearing on SB 32 that pointed out which school districts qualify and how it would affect them at that time. He said with everything they did on his House Bill, there were sheets that showed the winners and the losers. He asked if any of that information was passed out. He was told there was nothing handed out at the hearing and Senator Blaylock said he did not recall any winner and loser spread sheets put out during the interim.

Senator Waterman pointed out it is the same as with GTB now, if you are a winner now, you would be a winner under this bill. Senator Nathe pointed out that GTB recognizes numbers only and does not recognize any classroom costs.

Senator Blaylock said it is apparent that this will once again be the smaller communities versus the larger communities.

Senator Waterman asked if the criteria that was in the \$5 million bill, where they had to go to the Board of Public Education for approval and the building had to be 90% for educational etc., was a part of this bill and was told no.

Senator Blaylock asked Senator Stang if he would consider putting in his former House Bill and was told he could do so if he had any bill requests left, and it was pointed out that tomorrow is the deadline for bill drafting requests.

Senator Blaylock said he would try to keep track of what happened and if no bill goes in, the committee could then decide what to do with SB 32. Senator Brown agreed that if Senator Stang or someone else puts in a bill drafting request we will hold up action on SB 32 as long as possible, so long as we do not get trapped in transmittal.

ADJOURNMENT

Adjournment: 2:10 p.m.

  
CHET BLAYLOCK, Chair

  
SYLVIA KINSEY, Secretary

CB/sk

# ROLL CALL

SENATE COMMITTEE

### EDUCATION

DATE \_\_\_\_\_

4/13/93

[illegible]

F08

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 13, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 22 (first reading copy -- white), respectfully report that Senate Bill No. 22 be amended as follows and as so amended do pass.

Signed: \_\_\_\_\_  
Chet Blaylock, Chair  
(*signed orig*)

That such amendments read:

1. Title, lines 5 through 8.

Following: "TERMINATION;" on line 5

Strike: remainder of line 5 through "YEAR;" on line 7

Following: "AMENDING" on line 8

Strike: "SECTIONS"

Insert: "SECTION"

Following: "20-4-204"


Strike: "AND 20-4-206"

2. Page 3, line 9 through page 5, line 9.

Strike: subsection (7) and section 2 in their entirety

Renumber: subsequent section

-END-

 Amd. Coord.  
1/12 Sec. of Senate

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 13, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 28 (first reading copy -- white), respectfully report that Senate Bill No. 28 be amended as follows and as so amended do pass.

Signed: \_\_\_\_\_  
Chet Blaylock, Chair  
*(Signed orig)*

That such amendments read:

1. Title, lines 4 and 5.

Following: the second occurrence of "ACT"

Strike: "ELIMINATING THE REQUIREMENT"

Insert: "REQUIRING"

2. Title, line 6.

Following: "OR"

Strike: "BUILDINGS OWNED BY THE SCHOOL DISTRICT"

Insert: "IN A PUBLICLY OWNED BUILDING LOCATED WITHIN THE  
DISTRICT"

3. Page 2, line 3.

Following: "~~district.~~"

Insert: "Except for an unforeseen emergency, meetings must be  
conducted in school buildings or in a publicly owned  
building located within the district."

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 13, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 99 (first reading copy -- white), respectfully report that Senate Bill No. 99 be amended as follows and as so amended do pass.

Signed: Chet Blaylock  
Chet Blaylock, Chair

That such amendments read:

1. Title, lines 6 and 7.

Following: "1974" on line 6

Strike: remainder of line 6 through "SYSTEM" on line 7

Insert: "TO REQUIRE THAT A LEGISLATIVE INTERN HAVE AT LEAST ONE  
COURSE OF GOVERNMENT"

2. Page 1, line 14.

Following: "quarter"

Strike: "semester"

Insert: "course"

Following: "of"

Strike: "state government"

Insert: "government"

-END-



SENATE EDUCATION

EXHIBIT NO. 1

DATE 1/13/93

BILL NO. 79

P.O. BOX 3012 • BILLINGS, MONTANA 59103 • (406) 248-1086 • FAX (406) 248-7763

January 13, 1993

Helena Phone 449-2180

Mister Chairman, Members of the Committee:

For the record, I am Scott Crichton, Executive Director of the American Civil Liberties Union of Montana. I am here today to rise in opposition to Senate Bill 79.

We would suggest changing the language of this bill from "a person suspected" to "a person found guilty". Simply put, from a civil liberties perspective, someone accused of child abuse deserves the benefit of the due process of law before anyone, including their employer, is notified of alleged offense.

It is no longer uncommon for charges of child abuse to be leveled in the acrimony that accompanies divorce and custody proceedings. There is clear evidence that claims of abuse can be and often are being used as people battle for custody rights. (Perhaps some of you saw the year end broadcast of "60 Minutes" documenting the increasing frequency of unwarranted charges of child abuse as a legal tactic in divorce and custody proceedings.)

In criminal proceedings, the privacy rights of the accused are strictly protected by law enforcement during the criminal investigations. This should also be the case here.

Significant procedural questions would arise were this bill to be enacted into law. Among others, what is the school superintendent to do with the notice she or he receives? What is done with the completed investigation results? How does this affect the employee's employment record? How are files from unsubstantiated claims to be purged?

There are also serious questions regarding how such a bill would impact school systems' liabilities. This would be true both in cases where the charges may be justified and in instances where they are unwarranted.

The ACLU agrees that should school district employees be found guilty of child abuse or neglect, they should be dealt with, as should any citizen. But it seems that this bill is vulnerable to be penalizing potentially innocent people to make up for some school system's hesitancy to press charges under current law, when justified.

This bill is not an appropriate vehicle as it is vague, overbroad, and singles out school district workers. We urge you to vote Do Not Pass on SB 79. Thank you.

# ACLU OF MONTANA

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AMERICAN CIVIL LIBERTIES UNION

P.O. BOX 3012 • BILLINGS, MONTANA 59103 • (406) 248-1086 • FAX (406) 248-7763

January 13, 1993

Helena Phone 449-2180

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Significant procedural questions would arise were this bill to be enacted into law. Among others, what is the school superintendent to do with the notice she or he receives? What is done with the completed investigation results? How does this affect the employee's employment record? How are files from unsubstantiated claims to be purged?

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The ACLU agrees that should school district employees be found guilty of child abuse or neglect, they should be dealt with, as should any citizen. But it seems that this bill is vulnerable to be penalizing potentially innocent people to make up for some school system's hesitancy to press charges under current law, when justified.

This bill is not an appropriate vehicle as it is vague, overbroad, and singles out school district workers. We urge you to vote Do Not Pass on SB 79. Thank you.



Amendments to Senate Bill No. 28  
First Reading Copy

EXHIBIT NO. 2  
DATE 1/13  
BILL NO. 28

Requested by Senator Yellowtail  
For the Senate Committee on Education and Cultural Resources

Prepared by Eddy McClure  
January 13, 1993

1. Title, lines 4 and 5.

Following: "ACT"

Strike: "ELIMINATING THE REQUIREMENT"

Insert: "REQUIRING"

2. Title, line 6.

Following: first "BUILDINGS"

Strike: "OR BUILDINGS OWNED BY THE SCHOOL DISTRICT"

Insert: "OR IN A PUBLICLY OWNED BUILDING LOCATED WITHIN THE  
DISTRICT"

3. Page 2, line 3.

Following: "~~district.~~"

Insert: "Except for an unforeseen emergency, meetings must be  
conducted in school buildings or in a publicly owned  
building located within the district."

**SENATE EDUCATION**

EXHIBIT NO. 3

DATE 1/13/93

BILL NO. 22

Amendments to Senate Bill No. 22  
First Reading Copy

Requested by Senator Waterman  
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure  
January 8, 1993

1. Title, lines 5 through 8.

Following: "TERMINATION;" on line 5

Strike: remainder of line 5 through "YEAR;" on line 7

Following: "AMENDING" on line 8

Strike: "SECTIONS"

Insert: "SECTION"

Following: "20-4-204"

Strike: "AND 20-4-206"

2. Page 3, line 9 through page 5, line 9.

Strike: subsection (7) and section 2 in their entirety

Renumber: subsequent section

DATE 1/13/93

SENATE COMMITTEE ON

## BILLS BEING HEARD TODAY:

[illegible]

# VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

## ROLL CALL VOTE

EDUCATION

BILL NO.

4/13/93

1:40 PM

A.M. P.M.

**YES**

NO

[illegible]

Sylvia Kinsey

**SECRETARY**

SENATOR BLAYLOCK

## CHAIR

Waterman - Amend  
Erb #3