## SENATE BILL NO. 217

# INTRODUCED BY ECK BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

## IN THE SENATE

- JANUARY 28, 1991 INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY.
- JANUARY 29, 1991 FIRST READING.
- FEBRUARY 5, 1991 COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
- FEBRUARY 6, 1991 PRINTING REPORT.
- FEBRUARY 7, 1991 SECOND READING, DO PASS.
- FEBRUARY 8, 1991 ENGROSSING REPORT.
- FEBRUARY 9, 1991 THIRD READING, PASSED. AYES, 47; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 11, 1991

MARCH 13, 1991

MARCH 16, 1991

MARCH 18, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.

FIRST READING.

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN. AYES, 98; NOES, 0.

RETURNED TO SENATE.

IN THE SENATE

MARCH 19, 1991

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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LC 0743/01

Scrate BILL NO. 217 1 INTRODUCED BY 2 3 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES. 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF FAMILY SERVICES AND THE DEPARTMENT OF SOCIAL 6 7 AND REHABILITATION SERVICES TO ENTER INTO INTERSTATE 8 ADOPTION ASSISTANCE COMPACTS; AUTHORIZING PROCEDURES FOR

INTERSTATE SERVICES AND PAYMENTS: AND PROVIDING AN IMMEDIATE

10 EFFECTIVE DATE."

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12 WHEREAS, the Legislature finds that there is a need for more effective administration of adoption assistance for 13 14 families who have moved to or from the State of Montana: and 15 WHEREAS, the Legislature finds that the Department of 16 Family Services and the Department of Social and Rehabilitation Services should provide procedures 17 for 18 administering interstate adoption assistance and that those Departments should enter into interstate compacts 19 on 20 adoption assistance to provide a framework for more 21 effective administration of adoption assistance for these 22 families.

THEREFORE, the Legislature finds it appropriate to pass
legislation providing authority for those procedures,
interstate compacts, and related adoption agreements.

Montana Legislative Councu

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A statement of intent is required for this bill because 3 [section 7(3)] grants rulemaking authority to the department 4 of social and rehabilitation services for the purpose of 5 establishing procedures for continuing state medical 6 assistance benefits in addition to federally aided benefits 7 in certain cases. The legislature intends, as a matter of 8 policy, that when the state provides medical assistance 9 10 benefits in addition to the federal benefits available under an adoption assistance agreement, the benefits must continue 11 when a child relocates to a state that has agreed under a 12 compact to reciprocate by providing additional nonfederal 13 coverage to children moving to Montana. It is intended that 14 15 the medicaid card may be used as the identification for these services as well as for the true "medicaid" elements 16 of the state program. It is intended that [section 7(3)] 17 provide a means of improving, as far as possible, the 18 19 chances for handicapped and other "hard-to-place" children 20 to gain family settings for their development. It is intended that in those instances in which the plan for a 21 particular child is adoption (with assistance) by parents 22 23 who already live in another state or move there, the 24 department of social and rehabilitation services may provide the full measure of its services to these special-needs 25

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STATEMENT OF INTENT

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INTRODUCED BILL

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 additional resource for Montana children that would not be
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7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 <u>NEW SECTION.</u> Section 1. Authorization. The department 9 of family services and the department of social and 10 rehabilitation services are authorized to develop, 11 participate in the development of, negotiate, and enter into 12 one or more interstate compacts on behalf of this state with 13 other states for:

14 (1) the protection of children on behalf of whom15 adoption assistance is being provided; and

16 (2) the provision of procedures for interstate
17 children's adoption assistance payments, including medical
18 payments.

NEW SECTION. Section 2. Definitions. As used in
(sections 1 through 8), the following definitions apply:

(1) "Adoption assistance agreement" means an agreement
for adoption assistance between adoptive parents and the
state child welfare agency of the state that undertakes to
provide the adoption assistance, including a subsidy
agreement as provided in 53-4-309.

(2) "Adoption assistance state" means the signatory
 state to an adoption assistance agreement in a particular
 case.

4 (3) "Residence state" means the state of which the 5 child is a resident by virtue of the residence of the 6 adoptive parents.

7 (4) "State" means a state of the United States, the 8 District of Columbia, the Commonwealth of Puerto Rico, the 9 Virgin Islands, Guam, the Commonwealth of the Northern 10 Mariana Islands, or a territory or possession of or 11 administered by the United States.

NEW SECTION. Section 3. Federal 12 participation. 13 Consistent with federal law, the department of family 14 services and the department of social and rehabilitation 15 services, in connection with the administration of services 16 provided and compacts entered into under authority of 17 [sections 1 through 8], shall apply for and administer all 18 federal aid for adoption assistance and medical assistance 19 costs in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980 (Public Law 20 21 96-272), Titles IV (e) and XIX of the Social Security Act, 22 or any other applicable federal laws.

23 <u>NEW SECTION.</u> Section 4. Effect of compacts. A compact
24 entered into under [sections 1 through 8] has the force and
25 effect of law.

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A compact under [sections 1 through 8] must contain:

(1) a provision making it available for joinder by all
states;
(2) a provision or provisions for withdrawal from the
compact upon written notice to the parties, but with a
period of 1 year between the date of the notice and the
effective date of the withdrawal;

NEW SECTION. Section 5. Compacts -- required contents.

9 (3) a provision requiring that the protections afforded 10 by or pursuant to the compact continue in force for the 11 duration of the adoption assistance and be applicable to all 12 children and their adoptive parents who on the effective 13 date of the withdrawal are receiving adoption assistance 14 from a party state other than the one in which they are 15 resident and have their principal place of abode;

16 (4) a provision requiring that each:

(a) instance of adoption assistance to which the
compact applies be covered by an adoption assistance
agreement in writing between the adoptive parents and the
state child welfare agency of the state that undertakes to
provide the adoption assistance; and

(b) agreement be expressly for the benefit of the
adopted child and enforceable by the adoptive parents and
the state agency providing the adoption assistance; and

25 (5) other provisions as may be appropriate to implement

1 the proper administration of the compact.

2 NEW SECTION. Section 6. Compacts -- optional contents.
3 A compact under [sections 1 through 8] may contain:

4 (1) provisions establishing procedures and entitlement 5 to medical, developmental, or other social services for the 6 adopted child in accordance with applicable laws, even 7 though the child and the adoptive parents are in a state 8 other than the one responsible for or providing the services 9 or the funds to defray part or all of the costs of the 10 services; and

11 (2) other provisions as may be appropriate or 12 incidental to the proper administration of the compact.

13 NEW SECTION. Section 7. Medical benefits -- rules. (1) 14 The provisions of this section apply only when the compact 15 entered by this state and the other state under [sections 1 16 through 8] provides that the adoption assistance state, whether it be this state or the other state, shall continue 17 18 medical assistance to children in accordance with the 19 adoption assistance agreements made by the adoption 20 assistance state after the children have changed their 21 residence to this state or to the other state. All other 22 children entitled to medical assistance in this state are 23 eligible to receive it in accordance with the applicable 24 laws and procedures.

25 (2) A child with special needs residing in this state

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who is the subject of an adoption assistance agreement with 1 2 another state is entitled to receive medical assistance identification from this state upon the filing in the office 3 of the department of social and rehabilitation services 4 5 located in the county of the child's residence of a copy of 6 the adoption assistance agreement. Medical assistance 7 identification gained pursuant to this section entitles the 8 holder to processing and payment on claims of the holder in 9 the same manner and pursuant to the same conditions and procedures as other recipients of medical assistance. 10

11 (3) The department of social and rehabilitation services shall provide coverage and benefits for a child who 12 13 is in another state who is covered by an adoption assistance agreement entered into in this state for coverage or 14 benefits, if any, provided for under the adoption assistance 15 agreement made in this state but not provided by the 16 residence state. The adoptive parents acting for the child 17 may submit evidence of payment for services or benefit 18 19 amounts not payable in the residence state and must be reimbursed for the services. However, there may not be 20 reimbursement for services or benefit amounts covered under 21 22 any insurance or other third-party medical contract or 23 arrangement held by the child or the adoptive parents. The department of social and rehabilitation services shall adopt 24 rules implementing this subsection. The additional coverage 25

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and benefit amounts provided by this subsection are for services for which there is no federal contribution or for which, if federally aided, contributions are not provided by the residence state. Rules adopted pursuant to this subsection must include procedures to be followed for obtaining prior approval for services covered by this subsection when prior approval is required.

8 <u>NEW SECTION.</u> Section 8. Fraudulent obtaining of public 9 assistance. The provisions of 53-2-107 on fraudulently 10 obtaining public assistance apply to coverage and benefits 11 that may be obtained under [sections 1 through 8].

NEW SECTION. Section 9. Codification instruction.
[Sections 1 through 8] are intended to be codified as an integral part of Title 53, chapter 4, part 3, and the provisions of Title 53, chapter 4, part 3, apply to [sections 1 through 8].

- 17 NEW SECTION. Section 10. Effective date. [This act] is
- 18 effective on passage and approval.

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<sup>-</sup>End-

# STATE OF MONTANA - FISCAL NOTE

#### Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0217, as introduced.

## DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing the Department of Family Services and the Department of Social and Rehabilitation Services to enter into interstate adoption assistance compacts; authorizing procedures for interstate services and payments and providing and immediate effective date.

ASSUMPTIONS:

- 1. The act formalizes procedures that the Department of Family Services is currently using.
- 2. DFS estimates that 10 to 20 children may be placed in adoptive homes out-of-state each year.
- 3. All of the children placed are Title IV-E children who would be medicaid eligible.
- 4. Under OBRA-89, each state must provide all medicaid services to children identified as needing a service under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program regardless of state of residence.

### FISCAL IMPACT:

There is no identifiable fiscal impact in the SRS or DFS budgets.

DATE

ROD SUNDSTED, BUDGET DIRECTOR Office of Budget and Program Planning

DOROTHY ECK, PRIMARY SPONSOR

Fiscal Note for SB0217, as introduced

DATE

SB 217

52nd Logiclature

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families.

52nd	Legislature LC 0743/01
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13 [Sections 1 through 8] are intended to be codified as an 14 integral part of Title 53, chapter 4, part 3, and the 15 provisions of Title 53, chapter 4, part 3, apply to 16 [sections 1 through 8].

17 NEW SECTION. Section 10. Effective date. [This act] is

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12 WHEREAS, the Legislature finds that there is a need for 13 more effective administration of adoption assistance for families who have moved to or from the State of Montana; and 14 15 WHEREAS, the Legislature finds that the Department of 16 Family Services and the Department of Social and 17 Rehabilitation Services should provide procedures for 18 administering interstate adoption assistance and that those Departments should enter into interstate compacts on 19 20 adoption assistance to provide a framework for more 21 effective administration of adoption assistance for these 22 families.

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Montana Legislative Council

STATEMENT OF INTENT

3 A statement of intent is required for this bill because 4 [section 7(3)] grants rulemaking authority to the department 5 of social and rehabilitation services for the purpose of 6 establishing procedures for continuing state medical 7 assistance benefits in addition to federally aided benefits 8 in certain cases. The legislature intends, as a matter of 9 policy, that when the state provides medical assistance 10 benefits in addition to the federal benefits available under 11 an adoption assistance agreement, the benefits must continue 12 when a child relocates to a state that has agreed under a 13 compact to reciprocate by providing additional nonfederal 14 coverage to children moving to Montana. It is intended that 15 the medicaid card may be used as the identification for 16 these services as well as for the true "medicaid" elements 17 of the state program. It is intended that [section 7(3)] 18 provide a means of improving, as far as possible, the 19 chances for handicapped and other "hard-to-place" children 20 to gain family settings for their development. It is 21 intended that in those instances in which the plan for a 22 particular child is adoption (with assistance) by parents 23 who already live in another state or move there, the 24 department of social and rehabilitation services may provide 25 the full measure of its services to these special-needs

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REFERENCE BILL

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children. It is intended that out-of-state adoptions be an
 additional resource for Montana children that would not be
 available if the department of family services had to rely
 on finding families for special-needs children on an
 entirely local basis.

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7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 <u>NEW SECTION.</u> Section 1. Authorization. The department 9 of family services and the department of social and 10 rehabilitation services are authorized to develop, 11 participate in the development of, negotiate, and enter into 12 one or more interstate compacts on behalf of this state with 13 other states for:

14 (1) the protection of children on behalf of whom15 adoption assistance is being provided; and

16 (2) the provision of procedures for interstate 17 children's adoption assistance payments, including medical 18 payments.

19 <u>NEW SECTION.</u> Section 2. Definitions. As used in
20 [sections 1 through 8], the following definitions apply:

(1) "Adoption assistance agreement" means an agreement
for adoption assistance between adoptive parents and the
state child welfare agency of the state that undertakes to
provide the adoption assistance, including a subsidy
agreement as provided in 53-4-309.

(2) "Adoption assistance state" means the signatory
 state to an adoption assistance agreement in a particular
 case.

4 (3) "Residence state" means the state of which the 5 child is a resident by virtue of the residence of the 6 adoptive parents.

7 (4) "State" means a state of the United States, the 8 District of Columbia, the Commonwealth of Puerto Rico, the 9 Virgin Islands, Guam, the Commonwealth of the Northern 10 Mariana Islands, or a territory or possession of or 11 administered by the United States.

NEW SECTION. Section 3. Pederal participation. 12 Consistent with federal law, the department of family 13 services and the department of social and rehabilitation 14 services, in connection with the administration of services 15 provided and compacts entered into under authority of 16 [sections 1 through 8], shall apply for and administer all 17 federal aid for adoption assistance and medical assistance 18 costs in any state plan made pursuant to the Adoption 19 Assistance and Child Welfare Act of 1980 (Public Law 20 96-272), Titles IV (e) and XIX of the Social Security Act, 21 or any other applicable federal laws. 22

23 <u>NEW SECTION.</u> Section 4. Effect of compacts. A compact
24 entered into under [sections 1 through 8] has the force and
25 effect of law.

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<u>NEW SECTION.</u> Section 5. Compacts -- required contents.
 A compact under [sections 1 through 8] must contain:
 (1) a provision making it available for joinder by all

4 states;

5 (2) a provision or provisions for withdrawal from the 6 compact upon written notice to the parties, but with a 7 period of 1 year between the date of the notice and the 8 effective date of the withdrawal;

9 (3) a provision requiring that the protections afforded 10 by or pursuant to the compact continue in force for the 11 duration of the adoption assistance and be applicable to all 12 children and their adoptive parents who on the effective 13 date of the withdrawal are receiving adoption assistance 14 from a party state other than the one in which they are 15 resident and have their principal place of abode;

16 (4) a provision requiring that each:

17 (a) instance of adoption assistance to which the
18 compact applies be covered by an adoption assistance
19 agreement in writing between the adoptive parents and the
20 state child welfare agency of the state that undertakes to
21 provide the adoption assistance; and

(b) agreement be expressly for the benefit of the
adopted child and enforceable by the adoptive parents and
the state agency providing the adoption assistance; and
(5) other provisions as may be appropriate to implement

- 1 the proper administration of the compact.
- NEW SECTION. Section 6. Compacts -- optional contents. 2 3 A compact under [sections 1 through 8] may contain: (1) provisions establishing procedures and entitlement 4 5 to medical, developmental, or other social services for the 6 adopted child in accordance with applicable laws, even 7 though the child and the adoptive parents are in a state 8 other than the one responsible for or providing the services 9 or the funds to defray part or all of the costs of the
- 10 services; and
  11 (2) other provisions as may be appropriate or
- 12 incidental to the proper administration of the compact.

13 NEW SECTION. Section 7. Medical benefits -- rules. (1) 14 The provisions of this section apply only when the compact 15 entered by this state and the other state under [sections 1 16 through 8] provides that the adoption assistance state, 17 whether it be this state or the other state, shall continue medical assistance to children in accordance with the 18 19 adoption assistance agreements made by the adoption 20 assistance state after the children have changed their 21 residence to this state or to the other state. All other 22 children entitled to medical assistance in this state are 23 eligible to receive it in accordance with the applicable 24 laws and procedures.

(2) A child with special needs residing in this state

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1 who is the subject of an adoption assistance agreement with 2 another state is entitled to receive medical assistance 3 identification from this state upon the filing in the office 4 of the department of social and rehabilitation services located in the county of the child's residence of a copy of 5 6 the adoption assistance agreement. Medical assistance 7 identification gained pursuant to this section entitles the 8 holder to processing and payment on claims of the holder in 9 the same manner and pursuant to the same conditions and 10 procedures as other recipients of medical assistance.

11 (3) The department of social and rehabilitation 12 services shall provide coverage and benefits for a child who is in another state who is covered by an adoption assistance 13 14 agreement entered into in this state for coverage or 15 benefits, if any, provided for under the adoption assistance 16 agreement made in this state but not provided by the 17 residence state. The adoptive parents acting for the child may submit evidence of payment for services or benefit 18 19 amounts not payable in the residence state and must be 20 reimbursed for the services. However, there may not be 21 reimbursement for services or benefit amounts covered under 22 any insurance or other third-party medical contract or 23 arrangement held by the child or the adoptive parents. The department of social and rehabilitation services shall adopt 24 25 rules implementing this subsection. The additional coverage and benefit amounts provided by this subsection are for services for which there is no federal contribution or for which, if federally aided, contributions are not provided by the residence state. Rules adopted pursuant to this subsection must include procedures to be followed for obtaining prior approval for services covered by this subsection when prior approval is required.

8 <u>NEW SECTION.</u> Section 8. Fraudulent obtaining of public 9 assistance. The provisions of 53-2-107 on fraudulently 10 obtaining public assistance apply to coverage and benefits 11 that may be obtained under [sections 1 through 8].

12NEW SECTION.Section 9. Codificationinstruction.13[Sections 1 through 8] are intended to be codified as an14integral part of Title 53, chapter 4, part 3, and the15provisions of Title 53, chapter 4, part 3, apply to16[sections 1 through 8].

17 <u>NEW SECTION.</u> Section 10. Effective date. [This act] is

18 effective on passage and approval.

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