

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                   INTRODUCED AND REFERRED TO COMMITTEE  
ON HUMAN SERVICES & AGING.

FIRST READING.

MARCH 13, 1991                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 16, 1991                   SECOND READING, CONCURRED IN.

MARCH 18, 1991                   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.

1 Senate BILL NO. 217  
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE  
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 7 AND REHABILITATION SERVICES TO ENTER INTO INTERSTATE  
 8 ADOPTION ASSISTANCE COMPACTS; AUTHORIZING PROCEDURES FOR  
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 10 EFFECTIVE DATE."

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 12 WHEREAS, the Legislature finds that there is a need for  
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 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  
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 19 Departments should enter into interstate compacts on  
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 21 effective administration of adoption assistance for these  
 22 families.

23 THEREFORE, the Legislature finds it appropriate to pass  
 24 legislation providing authority for those procedures,  
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3 A statement of intent is required for this bill because  
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-2- INTRODUCED BILL  
 SB 217

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

8 NEW SECTION. Section 1. Authorization. The department  
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 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 whom  
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16 (2) the provision of procedures for interstate  
 17 children's adoption assistance payments, including medical  
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19 NEW SECTION. Section 2. Definitions. As used in  
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21 (1) "Adoption assistance agreement" means an agreement  
 22 for adoption assistance between adoptive parents and the  
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 24 provide the adoption assistance, including a subsidy  
 25 agreement as provided in 53-4-309.

1 (2) "Adoption assistance state" means the signatory  
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 3 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.

12 NEW SECTION. Section 3. Federal participation.  
 13 Consistent with federal law, the department of family  
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 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  
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 20 Assistance and Child Welfare Act of 1980 (Public Law  
 21 96-272), Titles IV (e) and XIX of the Social Security Act,  
 22 or any other applicable federal laws.

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

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

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

3            (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  
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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  
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16          (4) a provision requiring that each:

17            (a) instance of adoption assistance to which the  
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22            (b) agreement be expressly for the benefit of the  
23        adopted child and enforceable by the adoptive parents and  
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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  
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11          (2) other provisions as may be appropriate or  
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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  
18       medical assistance to children in accordance with the  
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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

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  
 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  
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11 (3) The department of social and rehabilitation  
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 16 agreement made in this state but not provided by the  
 17 residence state. The adoptive parents acting for the child  
 18 may submit evidence of payment for services or benefit  
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 20 reimbursed for the services. However, there may not be  
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1 and benefit amounts provided by this subsection are for  
 2 services for which there is no federal contribution or for  
 3 which, if federally aided, contributions are not provided by  
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8 NEW SECTION. **Section 8.** Fraudulent obtaining of public  
 9 assistance. The provisions of 53-2-107 on fraudulently  
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12 NEW SECTION. **Section 9.** Codification instruction.  
 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  
 18 effective on passage and approval.

-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.

  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR                      2-3-91  
Office of Budget and Program Planning                      DATE

  
\_\_\_\_\_  
DOROTHY ECK, PRIMARY SPONSOR                      2/4/91  
DATE

Fiscal Note for SB0217, as introduced

**SB 217**

APPROVED BY COMMITTEE  
ON PUBLIC HEALTH, WELFARE  
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SECOND READING

58 217



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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,  
17   whether it be this state or the other state, shall continue  
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

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  
 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  
 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  
 13 is in another state who is covered by an adoption assistance  
 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  
 18 may submit evidence of payment for services or benefit  
 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  
 24 department of social and rehabilitation services shall adopt  
 25 rules implementing this subsection. The additional coverage

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

8 NEW SECTION. **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].

12 NEW SECTION. **Section 9. Codification instruction.**  
 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  
 18 effective on passage and approval.

-End-

1 SENATE BILL NO. 217

2 INTRODUCED BY ECK

3 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE  
6 DEPARTMENT OF FAMILY SERVICES AND THE DEPARTMENT OF SOCIAL  
7 AND REHABILITATION SERVICES TO ENTER INTO INTERSTATE  
8 ADOPTION ASSISTANCE COMPACTS; AUTHORIZING PROCEDURES FOR  
9 INTERSTATE SERVICES AND PAYMENTS; AND PROVIDING AN IMMEDIATE  
10 EFFECTIVE DATE."

11  
12 WHEREAS, the Legislature finds that there is a need for  
13 more effective administration of adoption assistance for  
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  
17 Rehabilitation Services should provide procedures for  
18 administering interstate adoption assistance and that those  
19 Departments should enter into interstate compacts on  
20 adoption assistance to provide a framework for more  
21 effective administration of adoption assistance for these  
22 families.

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

1 STATEMENT OF INTENT

2  
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

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

6  
 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 NEW SECTION. 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 whom  
 15 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 NEW SECTION. Section 2. Definitions. As used in  
 20 [sections 1 through 8], the following definitions apply:

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

1 (2) "Adoption assistance state" means the signatory  
 2 state to an adoption assistance agreement in a particular  
 3 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.

12 NEW SECTION. Section 3. Federal 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  
 20 Assistance and Child Welfare Act of 1980 (Public Law  
 21 96-272), Titles IV (e) and XIX of the Social Security Act,  
 22 or any other applicable federal laws.

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



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

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

3            (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

22            (b) agreement be expressly for the benefit of the  
23        adopted child and enforceable by the adoptive parents and  
24        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.**

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