

SENATE COMMITTEE HEARING  
PUBLIC HEALTH, WELFARE, AND SAFETY  
50TH LEGISLATIVE SESSION

January 14, 1987  
1 P.M.

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on January 14, 1987, at 1 P.M. in Room 410 of the State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF SENATE BILL NO. 17: Sen. DICK PINSONNEAULT, District #27, sponsor of the bill, introduced the bill with some background comments. He mentioned work of the legislative interim Committee on Indian Affairs, that it has been meeting with members of various Indian tribes, discussing several of their concerns. Sen. Pinsonneault handed out maps showing reservation areas in Montana, quoted statistics that there are 50,000 Indians in Montana, on and off reservations. One in twenty Montana citizens is an Indian, and they are the largest single minority group in the state. The Montana Constitution has recognized certain rights to be extended to Indians:

Article I - Right to exercise Indian jurisdiction and control over Indian tribal lands.

Article II - Sec. IV - Right to be free of discrimination.

Article X - Sec. I - Right to have the Indian cultural heritage acknowledged and its integrity preserved.

Bills 17 and 18 address these last two Articles. Exhibit #1.

LOUIE CLAYBORN, Coordinator of Indian Affairs for the state of Montana, addressed the committee at the request of Sen. Pinsonneault. He stated that acts similar to these have been solicited at the Federal level by tribes from Montana and other states because Indian children have difficulties being moved into white, middle-class culture because Indian culture is quite different. Frequent alcoholism, a high school drop-out rate, and difficulty in forming an identity are consequences of Indian children being moved into white families. The Montana Indian Child Welfare Act is an attempt to have Indians sit on jurisdictional courts. The Federal Indian Child Welfare Act lays out a process to give jurisdiction back to the Tribal Court from a District Court. It is a way to retain the values and traditions of Native Americans.

PROPONENTS: CHERYL ZWANG, Assistant Coordinator of Indian Affairs for the state of Montana, stated that prior to the enactment of the Federal Indian Child Welfare Act of 1978, Indian children were frequently placed with non-Indian families, miles away from their tribes. Workers at SRS are still not always aware of the Statutes of the FICWA of 1978. An Indian specialist in the Dept. of SRS would make other workers aware of the needs of Indian children and see that they are placed with Indian families, if possible.

DEBORAH JONES, Women's Lobbyist Fund, stated that the WLF is concerned about the child abuse that occurs in both Indian and white communities, perhaps largely due to chronic unemployment and poverty. The WLF supports SB 17 and 18 as a way to continue to develop Indian foster homes, provide education and advocacy for Indian child welfare, and eventually provide a safe environment for all children. Exhibit #3.

ROBERT VANDIVER, concerned citizen lobbyist, stated that the Indians have not asked for much, that they don't like to go to whites to ask, and that people should take care of their own as much as possible, which this bill would enable the Indians to do. He urged passage of the bill.

LEOTA STANDING BEAR, Indian Child Welfare worker, asked for support of a specialist at SRS to solve the confusion that arises with cases involving Indian children off the reservation. Regular SRS workers do not seem to know regulations or resources available. A specialist could educate other SRS employees about the needs of Indian children. Exhibit #4.

LESLIE TAYLOR, staff person at SRS, testified that an Indian specialist would assist the department by providing an intermediary between the department and the tribes. SRS would support the bill if an additional appropriation were made. It is not now included in the Governor's regular budget proposal. SRS would like to see an advocate on the Child Foster Review Board, as well.

SEN. PINSONNEAULT added to the above testimony by describing situations where Indians and non-Indians do get together to discuss issues, such as the Annual Montana Judges Association meeting, which includes both tribal and district court judges. A specialist would expedite the handling of such problems as who is or is not an Indian, an issue which Indian tribes decide individually.

OPPONENTS: There were no opponents to the bill.

DISCUSSION OF SB 17: SEN. HIMSL: Could this be financed from Bureau of Indian Affairs monies instead of the Montana General Fund?

Ans: LOUIE CLAYBORN: The tribes don't need to, nor should they finance with BIA monies. They pay federal taxes in any case, and state taxes unless they reside in and are employed on the reservation and are members of the tribe. SRS submits a budget plan annually to the Federal government which includes money for Indian child welfare. The Federal Block Grant which comes back to the state includes money for the services (FICWA, 1978). The state of Montana cannot deny expenditures for the services.

SEN. HIMSL: Would the governing bodies of the tribes agree on the choice of a coordinator? Do there need to be seven candidates, one from each tribe, instead of five? Would the Indian choice be compatible with the operations of the Dept. of SRS?

Ans: LOUIE CLAYBORN: The selection process would not supplant the selection process of the state of Montana. The selection procedure and advisement is for qualifications only, not for tribal membership.

SEN. PINSONNEAULT: I feel that the most effective person will be the one who is the Indian's choice. An FTE might not be necessary right now.

SEN. ECK: How many cases (an estimate) would this person be addressing?

Ans: LOUIE CLAYBORN - Fort Peck, at the high end of the scale, handles 140 child welfare cases a year, 60 of which the specialist would be involved with. At the other end of the scale would Rocky Boy, with a potential caseload level of ten.

SEN. ECK: Are there cases where a specialist worker would most likely be called for?

Asn: LESLIE TAYLOR: The Federal government provides for foster care funding and assistance in child abuse and neglect. The state SRS submits a plan to the Federal government specifying how they would provide these services and includes the serving of Indians and Indian reservations in that plan. But, this money is not available to tribes if they don't have a state-tribal agreement with SRS.

KAREN RENNE: The Attorney General has ruled that the state can't provide services without an inter-tribal agreement. Right now only one state-tribal agreement exists.

SEN. ECK: What is the source of funding for block grants for Child Welfare and Neglect. Sen. Himsl will want to know, also. Will Karen Renne please check on this.

LOUIE CLAYBORN: The tribes have been trying to negotiate these agreements and are having trouble with questions on jurisdiction and provision of funds. The question right now is one of a provision of services. The state has already submitted a budget to provide care under the Federal Indian Child Welfare Act, so the state of Montana cannot deny expenditures for services. The state of Montana feels that questions of jurisdiction prevent it from providing these services at this time.

SEN. PINSONNEAULT: Mr. Clayborn's testimony shows the complexity in determining how to get money and administer services. Nevertheless, I urge a DO PASS for this bill.

CONSIDERATION OF SB # 18:

Chairman DOROTHY ECK opened by calling on SEN. DICK PINSON-NEAULT, sponsor of the bill. He is turn called on LESLIE TAYLOR, SRS, Foster Care Review, to testify. She recommended that someone from the Native American culture should serve on Foster Care Review and that placement be reviewed periodically to reduce extensive stays in foster care for children.

PROPOSERS: CHERYL ZWANG, assistant in the Office of Indian Affairs, testified that an Indian should be appointed to foster care review committees serving areas with significant Indian populations. For example, in Billings, regular social workers know of few homes in which Indian children can be placed. An Indian committee person would know of more families available to take Indian children, families where parents might have some Indian blood. The Office of Indian Affairs would like to see a DO PASS on this bill. Exhibit #1. LEOTA STANDING BEAR seconded the above testimony. Exhibit #2.

ROBERT VANDIVER, Citizen Lobbyist, stated that he also favors this bill.

There were no more proponents or opponents.

DISCUSSION OF SB #18: SEN. HIMSL: What is the rationale for this bill?

Ans: KAREN RENNE, legislative researcher, stated that the bill's intent is to include counties with a significant population of non-reservation children under the services of an Indian foster care worker.

SEN ECK: Is there any indication of judicial districts that this would affect?

Ans: KAREN RENNE: Twelve.

SEN. WILLIAMS: Who would get jurisdiction?

Ans: SEN. PINSONNEAULT: Jurisdiction should go to the appropriate tribal court. This bill would help children get into a stable, permanent environment as quickly as possible.

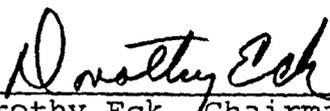
There was no further discussion on SB # 18.

DISPOSITION OF SB #18: SEN. JACOBSON moved that SB 18 DO PASS. The vote was unanimous.

DISPOSITION OF SJR #1: SEN. MEYER moved that SJR #1 DO PASS. The vote was unanimous.

There being no further business, the hearing was adjourned.

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Dorothy Eck, Chairman

ROLL CALL

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1-14-87

NAME	PRESENT	ABSENT	EXCUSED
Dorothy Eck	X		
Bill Norman	X		
Bob Williams	X		
Darryl Meyer	X		
Eleanor Vaughn	X		
Tom Rasmussen	X		
Judy Jacobson	X		
Harry H. "Doc" McLane	X		
Matt Himsl	X		
Tom Hager	X		

Each day attach to minutes.

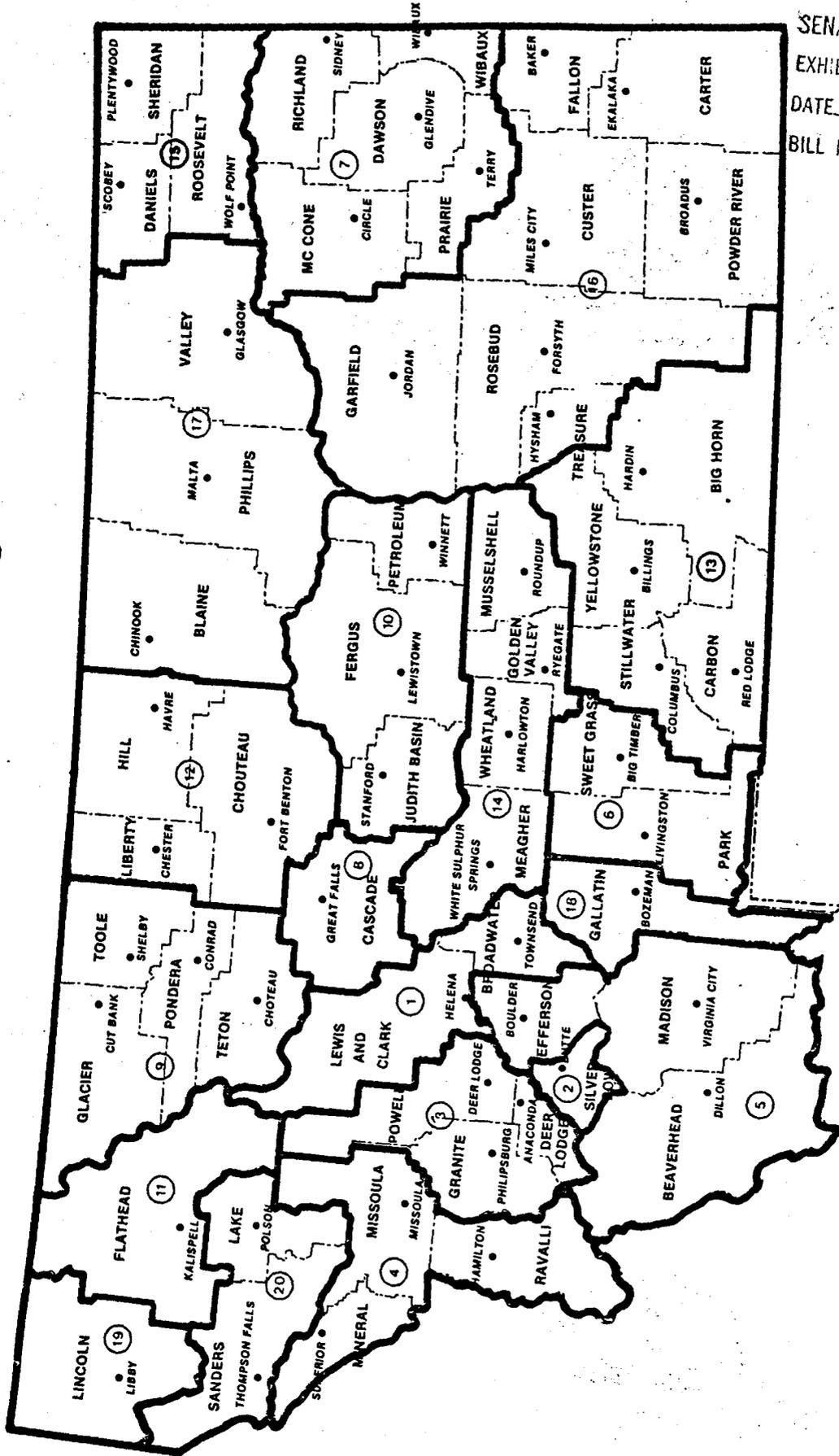
DATE 1-14-87

COMMITTEE ON Public Health, Safety, & Welfare

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Cheryl G. Zwing	State Indian Affairs	SB 17 SB 18	X	
Suzanne Billy J	Dewa Rocky Boy Res	SB 17 SB 18	X	
Lucas S. Beum	" " " "	" "	X	
Robt. Van Der Kerk	Self	" "	X	
Kestie C. Taylor	Dept of SRS	SB 17		
Lars STEINBECK	OBPP	SB 17		
John Madsea	SRS	SB 17-8	X	
Jackie Ausden	Womens Lobbyist Fund	SB 17	X	
Sandy Chaney	Womens " "	SB 17 18	X	
JUDITH H CARLSON		SB 17/18	X	
Debra Jones	Women's Lobbyist Fund	SB 17/18	X	

# MONTANA JUDICIAL DISTRICTS



SENATE HEALTH & WELFARE  
 EXHIBIT NO. 1  
 DATE 1-14-87  
 BILL NO. SB17

STATE COORDINATOR OF INDIAN AFFAIRS

SENATE HEALTH & WELFARE #2

DATE 7-14-87

BILL NO. SB 17



TED SCHWINDEN, GOVERNOR

1218 EAST SIXTH AVENUE

STATE OF MONTANA

(406) 444-3702  
DONALD L. CLAYBORN, COORDINATOR

HELENA, MONTANA 59620-0401

SENATE BILL 17 TESTIMONY

Cheryle C. Zwang, Asst. Coordinator of Indian Affairs

January 14, 1987

Mr. Chairman, Members of the Committee:

For the record, my name is Cheryle Zwang. I am the Assistant Coordinator of Indian Affairs for the state of Montana and I am here as a proponent for SB 17.

As Senator Pineseault, the sponsor of this bill and a member of the Committee on Indian Affairs, and persons (both Indian and non-Indian) involved in the social service field and judicial system are aware, the intricacies of the Indian Child Welfare Act and all that that entails have brought us to the point where legislation such as this bill is sorely needed.

The Indian Child Welfare Act of 1978 (25 U.S.C.'§ 1901) was enacted so that tribes could have jurisdiction over the placement of Indian children. Prior to this act, the state determined placement of these children and, many times, these children were placed with non-Indians, miles away from their families, without benefit of cultural ties with their tribe.

With the enactment of the Indian Child Welfare Act, tribes now may assume jurisdiction of cases involving enrolled or enrollable members.

Although the act is very clear about the legality of tribal courts doing this; there have been many instances where provisions of the act have not been adhered to - either through ignorance of the act itself or because of hesitancy on the part of involved agencies. Having a designated person within the Department of Social and Rehabilitation Services knowledgeable of the act; Montana's Indian population; and of social services would, in our opinion, greatly reduce any ambiguities brought about by the act and result in appropriate placement of Montana's Indian children. The latter being of the utmost importance.

The Office of the Coordinator of Indian Affairs realized the problems discussed above and sponsored several conferences dealing specifically with the Indian Child Welfare Act and also with State/Tribal Cooperative Agreements. Although the conferences were termed successful and many issues were brought out and discussed; it is the opinion of the Office of the Coordinator of Indian Affairs that an Indian Child Welfare Specialist would be most beneficial to all parties involved. This person, because of the very structure of their job, would be capable of devoting complete attention to the placement of Indian children and the working out of cooperative agreements so that each involved party knows specifically what is expected of them.

At present, certified Indian foster homes and other Indian placement resources are minimal at best. Having a specialist within the department sensitive to the needs of an Indian child and known in the Indian community could greatly help in all aspects of placement services.

It has been said time and time again that Montana's most valuable resource is her children; yet, because these little people cannot vote

# WOMEN'S LOBBYIST FUND

Box 1099  
Helena, MT 59624  
449-7917



SENATE HEALTH & WELFARE

EXHIBIT NO. 3

DATE 1-14-87

BILL NO. 17 & 18

January 14, 1987

Testimony in support of SB 17 and 18

Ms. Chairman and Members of the Senate Public Health, Welfare and Safety Committee:

My name is Debra Jones. I represent the Women's Lobbyist Fund, a coalition of 39 organizations which represent over 6500 individuals in Montana.

Our board of directors has educated themselves about Indian child welfare. We are concerned about the level of child abuse that occurs in Indian communities as in all communities. According to a recent conference on the Indian Child Welfare Act at Dull Knife Memorial College, child abuse may affect up to one-fifth or even one-fourth of all children on reservations. It is important to realize that the chronic problems of unemployment and poverty, alcohol and drug abuse, and teen-age pregnancy which characterize many families on reservations promote an environment in which children suffer.

We support SB 17, which will develop Indian foster homes and other Indian placement resources, and will continue to provide education and advocacy for Indian child welfare.

The Women's Lobbyist Fund urges you to support both SB 17 and 18 as a step for providing a safe environment for all Montana children.

NAME: Leola M. Standing Bear DATE: 1/14/87

ADDRESS: Rocky Day Route, Lakeland, Mo

PHONE: 395-4700

SENATE HEALTH & WELFARE

EXHIBIT NO. 4

REPRESENTING WHOM? Chippewa - Cree Tribe

DATE: 1-14-87

BILL NO. 17

APPEARING ON WHICH PROPOSAL: SB-17

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: Our tribe strongly supports the app. of an Indian Child Welfare Specialist at the SRS level. Too many times there seems to be a communication gap and confusion when a case comes up involving an Indian child off-reservation. The parties involved are usually not familiar and resources not known to them. With this specialist a lot of this could be eliminated all the confusion and our communication gap would be improved. Direction and guidance to this problem could be served very well with a specialist at SRS especially when made known to the public.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Leslie Taylor DATE: 1/14/87

ADDRESS: Dept of SRS

PHONE: \_\_\_\_\_

SEN. TE HEALTH & WELFARE  
EXHIBIT NO. 3  
DATE 1-14-87  
BILL NO. 17  
BILL NO.

REPRESENTING WHOM? Dept of SRS

APPEARING ON WHICH PROPOSAL: # SB 17

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: The Department of Social and Rehabilitation Services supports the concept proposed by SB 17. However, this position was not funded as part of the Governor's Budget. Unless there is an appropriation which will provide the costs of this position, the Department would oppose the bill

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.





# STANDING COMMITTEE REPORT

JANUARY 14

19 87

MR. PRESIDENT

We, your committee on..... SENATE PUBLIC HEALTH, WELFARE AND SAFETY.....

having had under consideration..... SENATE JOINT RESOLUTION.....

No..... 1.....

FIRST reading copy ( WHITE )  
color

**OPPOSING INDIAN HEALTH SERVICE REGS LIMITING ELIGIBILITY FOR HEALTH CARE**

**CAGE**

Respectfully report as follows: That..... SENATE JOINT RESOLUTION.....

No..... 1.....

DO PASS

~~DO NOT PASS~~

.....  
Chairman.

# STANDING COMMITTEE REPORT

JANUARY 14

19 87

MR. PRESIDENT

We, your committee on SENATE PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration SENATE BILL No. 18

FIRST reading copy ( WHITE )  
color

**REQUIRING PERSON KNOWLEDGEABLE ABOUT INDIAN AFFAIRS ON FOSTER REVIEW COMMITTEE**

Respectfully report as follows: That SENATE BILL No. 18

DO PASS

~~RECKONED PASS~~

.....  
Chairman.