

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

March 6, 1987

The eighteenth meeting of the Senate Education and Cultural Resources Committee was called to order at 1:00 p.m. in Room 402 of the State Capitol, by chairman Senator Bob Brown.

ROLL CALL: All committee members were present with Senators Regan, Pinsonneault and Neuman being tardy due to presentations of bills in other committees.

CONSIDERATION OF HOUSE BILL 117: REPRESENTATIVE HANSON, District 57, sponsor of the bill, said the School Clerks Association asked her to submit the bill. The bill streamlines and creates flexibility in the procedures used to sell or dispose of school property.

PROPOSERS: JOHN CAMPBELL, School Business Officials of Montana, expressed support for the bill.

ELINOR COLLINS, Montana Association of County Superintendents of School, expressed support for the bill.

BRUCE MOERER, Montana School Boards Association, expressed support for the bill.

There were no further proposers and no opponents for the bill.

ACTION ON HOUSE BILL 117: SENATOR SMITH moved House Bill 117 BE CONCURRED IN. The motion CARRIED unanimously with Senators Regan, Neuman and Pinsonneault absent.

CONSIDERATION OF HOUSE BILL 682: REPRESENTATIVE SPAETH, District 84, sponsor of the bill, said the bill allows for trustees of two or more districts to form a joint board for sharing school duties and costs. He stressed this is a voluntary procedure and is based on the statutes which allow county high school and elementary districts to be combined, 20-3-361, MCA. A range of services that districts could provide in a combination board and the changes in membership for the sake of equality are addressed in the bill. The boards have the same powers

when they combine as they did as individual boards. Hiring practices are also defined. He said the bill creates the potential for joint administrator, joint purchasing and joint employment of specialists.

PROPOSERS: CHIP ERDMAN, representing Local Control, said this is a workable bill which allows districts to get together and cooperate on a specific project, or as many as they must, although some joint efforts can be made under present law, it is very cumbersome. Board membership is maintained and no one district has a voting edge.

BRUCE MOERER, Montana School Boards Association, said he supports the bill for the aforementioned reasons and because it encourages cooperation between districts.

CLAUDETTE MORTON, Executive Secretary, Board of Public Education, presented testimony in support of the bill. (Exhibit 1).

PHIL CAMPBELL, Montana Education Association, expressed support for the bill.

JESS LONG, School Administrators of Montana, supported the bill.

ELINOR COLLINS, Montana Association of County Superintendents of School, supported the bill.

BOB STOCKTON, Office of Public Instruction spoke as a proponent, but pointed out there is no time or duration mentioned in the bill. He felt a requirement should be added that the joint districts stay together at least for the duration of the school year.

SENATOR NEUMAN, sponsor of Senate Bill 322 on school consolidation, supported the bill.

SENATOR BLAYLOCK, sponsor of Senate Bill 143, on school consolidation, supported the bill.

There were no further proponents and no opponents to the bill, and Rep. Spaeth closed the hearing.

CONSIDERATION OF HOUSE BILL 83: REP. CODY, District 20, sponsor of the bill, stated the bill revises nepotism laws as they regard district trustees. Trustees would be authorized to appoint a trustee's relative with approval of 2/3 of the trustees and also to renew a

relative's contract if the person was initially appointed before the member of the board to whom he is related assumed office.

PROPOSERS: REP. DARKO, District 2, expressed support for the bill.

REP. GRINDE, District 30, said a situation in a small district in his area is now being reviewed for a legal opinion. The situation arose when a ten year tenured teacher married the brother of a school trustee.

REP. RUSSELL, District 99, said there is a great deal of inter-relatedness in Indian communities. Small rural communities often have this problem as the school is often the largest employer. She said the problem exists in her own family between teacher and board member.

PHIL CAMPBELL, Montana Education Association, said no one should be denied a job because of a relation, just as no one should get a job because of a relation. The two-thirds vote should cover the situation adequately.

BOB STOCKTON, Office of Public Instruction, said an Attorney General's opinion many years ago said a spouse could not be denied employment because of marriage. The problem was that any relatives of the spouse would be hired under that ruling. That has resulted in some real problems today with some long term employees.

MR. CAMPBELL urged the committee to take quick action on the bill as Boards across the state are doing their hiring in the very near future. He also submitted a letter from DALE HUBBER, County Attorney, Terry, Montana. (Exhibit 2)

OPPOSERS: BRUCE MOERER, Montana School Boards Association, said his organization has historically been opposed to any changes in the nepotism law. After careful re-examination, the MSBA Legislative Committee has decided to stay with that stand as they feel the solution is worse than the problem. He stated they do not object to the amendment regarding reservation schools, however, the language "adjacent to", on page 2, line 3, could cause an equal protection problem based on race.

JESS LONG, School Administrators of Montana, said the deliberateness sets brother against brother in negotiations. He felt the terminology in the bill creates real problems and is better left as it is.

ELINOR COLLINS, Montana Association of County Superintendents of Schools, said she felt there were real problems with the bill which would cause more trouble rather than less. She said potential trouble spots are in the areas of salaries and terminations when dealing with relatives. She also objected to the "adjacent to" language.

DISCUSSION BY COMMITTEE MEMBERS: SENATOR BLAYLOCK said some Indian people had talked to him regarding a person who was elected to the Board and then hired his whole family.

REP. CODY said the voters took care of that situation. She realized this is a problem, but has confidence that the voters are aware of it and will deal with it when necessary.

SENATOR BROWN asked Mr. Moerer if the MSBA objected to the amendments in the House regarding the equal protection issue.

MR. MOERER said he hadn't, as the bill was amended after the hearing.

SENATOR BROWN asked Mr. Moerer if he would approve of the bill with the amendment stricken.

MR. MOERER, said he would if his opinion was indeed right.

SENATOR BROWN said he felt there was a problem either way. He wondered if it could be taken care of on page 1, line 21 regarding consanguinity and affinity rather than on page 2, line 3.

MR. CAMPBELL presented the committee with charts on degrees of consanguinity and affinity. (Exhibit 3).

SENATOR HAMMOND and SENATOR McCALLUM both felt any reference to schools by reservations does not apply to all schools, and they objected to that segregation.

REP. CODY closed by saying school administrators can hire their relatives and she questioned their objectivity. She further stated most hiring is done by superintendents, and not by Boards. She felt the two-thirds vote takes care of the nepotism problem or conflict and acts as a protection for all concerned.

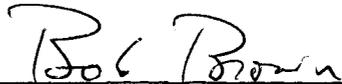
Education and Cultural Resources
March 6, 1987
Page 5

EXECUTIVE SESSION

ACTION ON HOUSE BILL 682: SENATOR MCCALLUM MOVED to AMEND House Bill 682 as per the Standing Committee Report. (Exhibit 4). The motion CARRIED unanimously.

SENATOR HAMMOND moved House Bill 682 BE CONCURRED IN AS AMENDED. The motion CARRIED unanimously.

There being no further business to come before the committee, the meeting adjourned.



SENATOR BOB BROWN, Chairman

jdr

ROLL CALL

SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/6/87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BOB BROWN	✓		
SENATOR CHET BLAYLOCK	✓		
SENATOR GEORGE McCALLUM	✓		
SENATOR ED SMITH	✓		
SENATOR PAT REGAN	✓	tardy	✓
SENATOR JOE MAZUREK	✓		
SENATOR BILL FARRELL	✓		
SENATOR TED NEUMAN	✓	Tardy	✓
SENATOR DICK PINSONEAULT	✓	tardy	✓
SENATOR SWEDE HAMMOND	✓		

Each day attach to minutes.

DALE M. HUBBER
COUNTY ATTORNEY

OFFICE OF
COUNTY ATTORNEY

PRAIRIE COUNTY
TERRY, MONTANA 59349

March 4, 1987

SENATE EDUCATION

EXHIBIT NO. 2 PHONE 637-2160
BOX 215
DATE 3/4/87
BILL NO. HB 83

Senator Bob Brown, Chairman
Education Committee
Capitol
Helena, Montana 59601

Re: House Bill 83

Dear Chairman Brown:

The Senate Education Committee is scheduled to have a hearing regarding House Bill 83 at 1:00 P.M. on Friday, March 6, 1987.

This Bill would provide two additional exceptions to the Nepotism Law. At the present time, other than sheriffs appointing cooks or attendants, Montana law absolutely prohibits the hiring of relatives within certain degrees of kinship by political sub-divisions.

The prohibition applies to blood relatives as distant as cousins, and to in-laws as distant as brothers and sisters-in-law. The Nepotism Law causes several problems in a small community. It is difficult enough to persuade members of the community to run for school board, without eliminating the relative of every person who works for the school district. The Attorney General has ruled that there is no violation of the Nepotism Law for an employee hired during the previous board's administration to continue to serve after the election of a relative to the board. The act is violated, however, if a new board reviews, reappoints or rehires an employee hired prior to the relative's assumption of office. The Attorney General has also ruled that this applies even to tenured teachers.

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*Here
to
end*

On our current six member school board, we have five potential nepotism problems. One member of the school board has a first cousin who is a tenured teacher who has taught in the school system for several years. However, according to the Opinion of the Attorney General, when this teacher's contract is reviewed in the spring, the Nepotism Law prohibits issuance of another contract to the tenured teacher. Another member has a sister-in-law who works as a cook for the school district. If her contract is reviewed each year, she is prohibited from being rehired by the school district. Another board member has a niece who has worked as a secretary for the school district for several years, and if

STANDING COMMITTEE REPORT

March 5, 1937

MR. PRESIDENT

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration HOUSE BILL No. 117

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**REVISE PROCEDURE BY WHICH SCHOOL TRUSTEES MAY SELL SCHOOL
PROPERTY**

HANSON, M. (BROWN)

Respectfully report as follows: That HOUSE BILL No. 117

BE CONCURRED IN

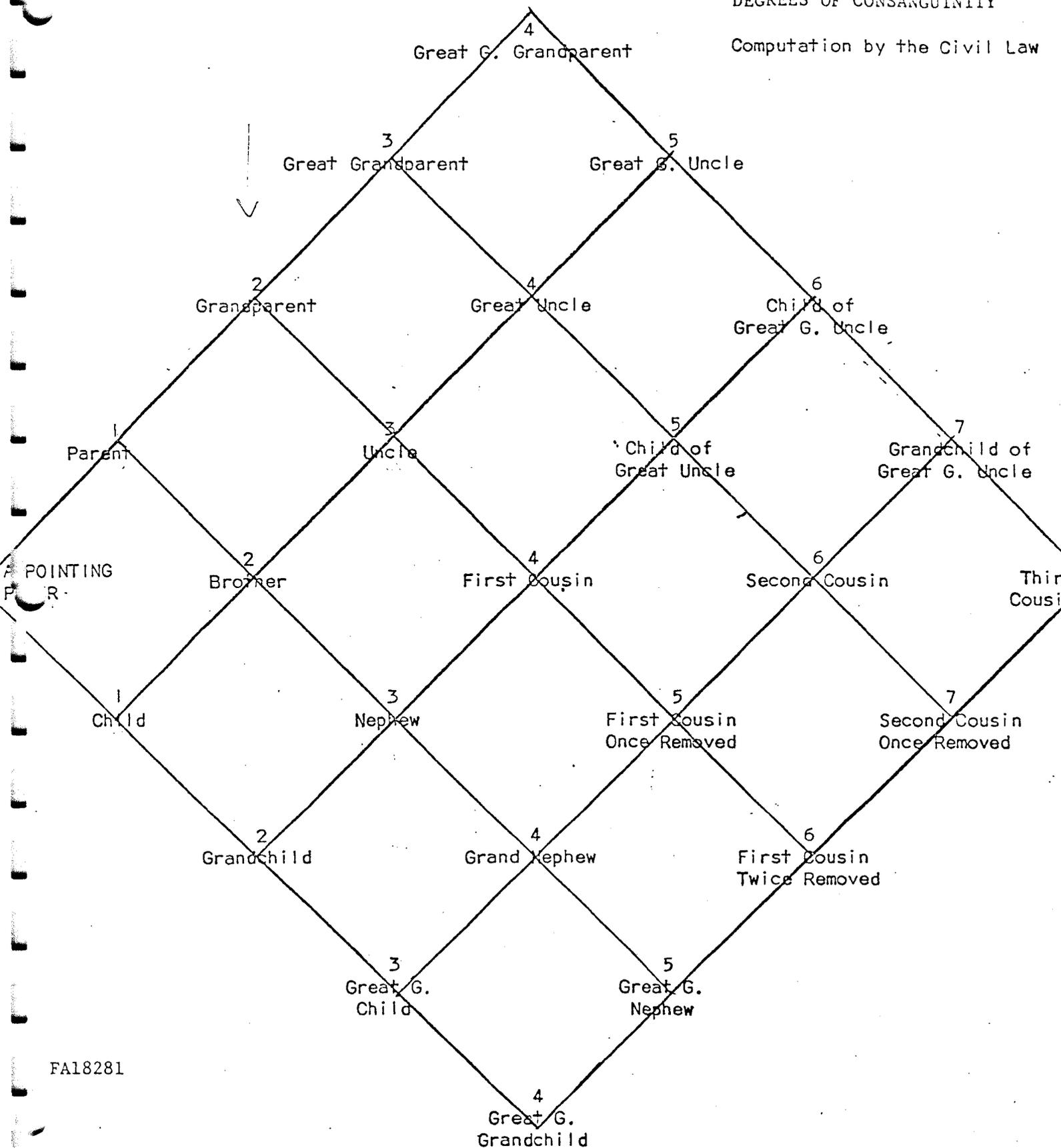
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~~XXXXXXXX~~

SENATOR BOB BROWN, Chairman.

DEGREES OF CONSANGUINITY

Computation by the Civil Law



POINTING
P R

FA18281

Where "brother" appears, read "brother or sister"; where uncle appears, read "uncle or aunt"; where "nephew" appears, read "nephew or niece." The first cousin is the cousin german.

Senator Bob Brown, Chairman -2-

March 4, 1987

she is deemed to be rehired periodically, the Nepotism Law prohibits such rehiring. Another school board member has a daughter-in-law who sometimes has worked as a substitute teacher. The fifth board member has a sister-in-law who applied for a teaching position but could not be considered for the position, no matter what her qualifications and experience were.

I believe that House Bill 83 is a sensible solution to the nepotism problem. I believe the potential for abuse is minimal, for three reasons:

1. The board members are elected.
2. Each board member has only one vote regarding the selection of persons for employment.
3. School board members are subject to recall from such office.

I urge your Committee to approve House Bill 83, and hope that this Bill is passed by the Senate.

*

Very truly yours,

DALE M. HUBBER

DALE M. HUBBER

DMH/pb

STANDING COMMITTEE REPORT

SENATE EDUCATION

EXHIBIT NO. 4

DATE 3/6/57

MARCH 5,

BILL NO. H.B. 652

1957

MR. PRESIDENT

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration HOUSE BILL No. 692

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color

ALLOW SEVERAL SCHOOL BOARDS TO FORM A JOINT BOARD TO SHARE DUTIES AND COSTS

SPAETH (HAMMOND)

Respectfully report as follows: That HOUSE BILL No. 692

Be amended as follows:

1. Page 3.

Following: line 12

Insert: "(6) A joint board must remain in existence for at least one school year and may not be dissolved until the end of a school year."

**AND AS AMENDED,
BE CONCURRED IN**

~~DO PASS~~

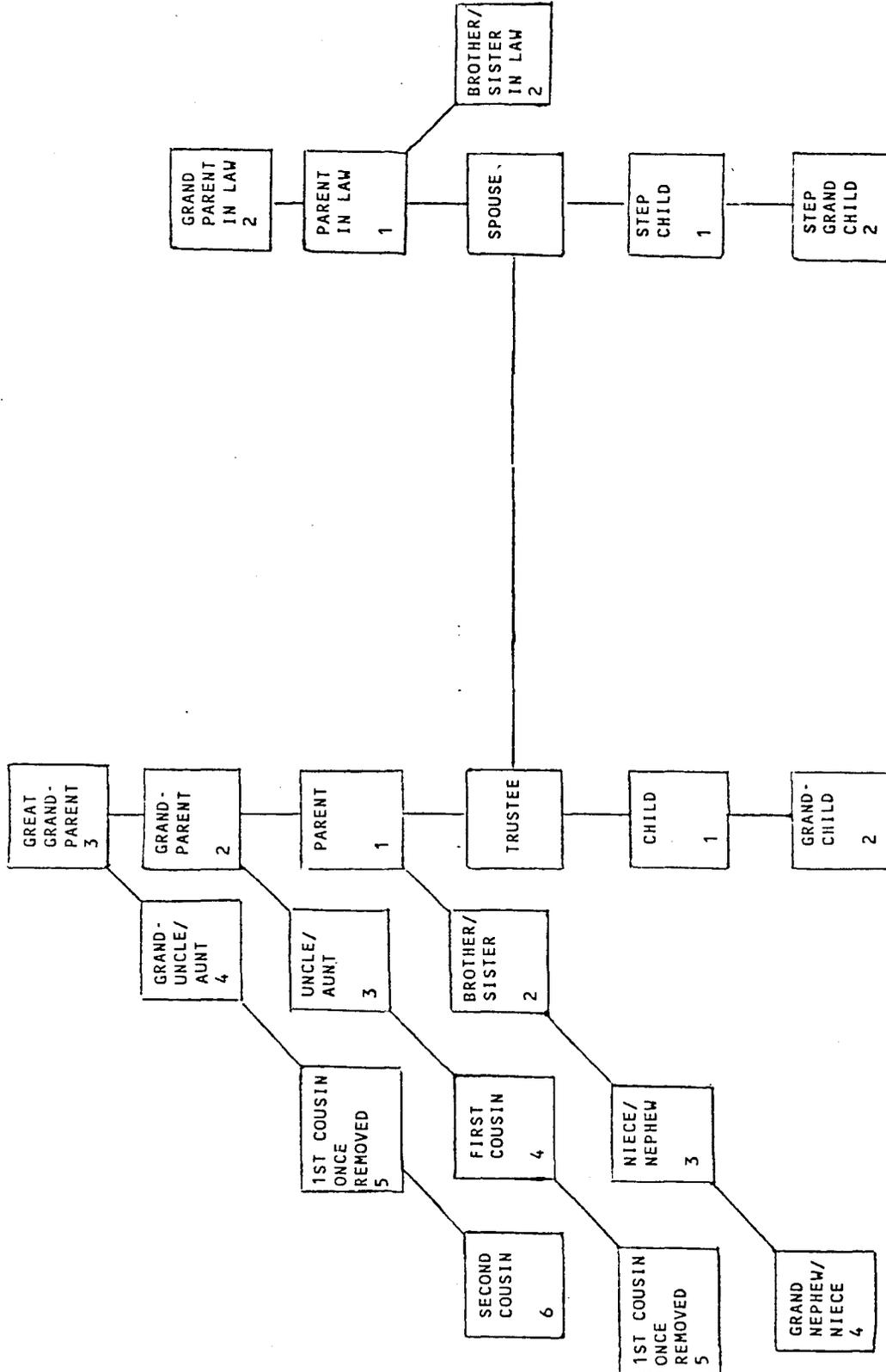
~~DO NOT PASS~~

.....
SENATOR NOB BROWN,

Chairman.

DEGREES OF AFFINITY

DEGREES OF CONSANGUINITY



Numerals denote Degree of Relationship

SENATE EDUCATION

EXHIBIT 3

DATE 3/16/87

BILL NO. H13 S3