

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

February 15, 1985

The thirteenth meeting of the Senate Education and Cultural Resources Committee was called to order by the Chairman, Senator Chet Blaylock, at 1:00 p.m. in Room 402, State Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF SENATE BILL 319: SENATOR JACOBSON, District 36, sponsor of the bill, said the bill provides for appointment of surrogate parents for handicapped children for educational planning purposes.

PROPOSERS:

EARL BRITTON, representing Special Services, Office of Public Instruction, presented his testimony to the committee (Exhibit #1).

There were no further proponents and no opponents to the bill.

DISCUSSION:

SENATOR MAZUREK asked if this is necessary with the limited guardianship law in the statutes at present.

RICK BARTOS, Counsel, Office of Public Instruction, said the Office of Special Education of the Department of Education mandated specific language re surrogate parents and nomination procedures for surrogate parents. He said technically there is some duplication but to satisfy the Department of Education that language must be used and must also cover the educational process in institutional settings.

ACTION ON SENATE BILL 319:

SENATOR HAFLEY moved the amendments as per the attached standing committee report. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 320: SENATOR TVEIT, District 11, sponsor of the bill, said the bill requires a county treasurer to immediately remit to the state treasurer for deposit in the state equalization aid account any surplus balance from the basic county levies for elementary and high school districts and require the county superintendent to apportion the basic county levy revenues to the districts on a monthly basis.

PROPOSERS:

GLORIA PALADCHUK, Richland County Treasurer, presented her testimony in support of the bill (Exhibit #2).

BILL ANDERSON, Office of Public Instruction, thanked the sponsor and urged support of the bill.

CHIP ERDMAN, Montana School Boards Association, said he supports the bill, especially Section 3.

JESS LONG, School Administrators of Montana, said his organization supports the bill.

There were no further proponents and no opponents to the bill.

CONSIDERATION OF HOUSE BILL 267: REPRESENTATIVE RAY HARBIN, District 53, sponsor of the bill, said the bill simply extends the date by which school equalization mill levy surpluses are to be remitted to the state from June 1 to June 20 of the fiscal year for which the levy has been set. He noted that the last half taxes aren't collected until May 31 making it difficult to remit by June 1. The bill just extends the deadline by twenty days.

PROPOSERS:

DAVE ASHLEY, Deputy Director, Department of Administration, said he has worked on a cooperative agreement with nine counties trying to speed up receipt of the monies, but the June 1 deadline is the stumbling block.

There were no further proponents and no opponents to the bill.

EXECUTIVE SESSION:

Senate Education and Cultural
Resources Committee
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ACTION ON SENATE BILL 319:

SENATOR REGAN moved SB 319 DO PASS AS AMENDED. The motion carried with Senator Mazurek voting no and Senator Yellowtail absent.

SENATOR HAFHEY moved to accept the Statement of Intent. The motion carried unanimously.

ACTION ON HOUSE BILL 267:

SENATOR McCALLUM moved House Bill 267 BE CONCURRED IN. The motion carried unanimously.

ACTION ON SENATE BILL 320:

SENATOR HAFHEY moved the amendments as per the attached standing committee report. The motion carried unanimously.

SENATOR McCALLUM moved SB 320 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON SENATE BILL 271:

SENATOR BLAYLOCK read a letter from Dave Hunter regarding the request for a revised fiscal note (Exhibit #3).

SENATOR McCALLUM felt that if there are problems in the bill Lee should look at it, we should straighten it up, and it should go to Finance and Claims.

SENATOR REGAN said the technical defect is with the date.

After reading the statute 15-1-501, MCA, Lee felt the bill would have to be amended to reflect the 30% change in that statute.

SENATOR REGAN moved that Lee Heiman, Committee Counsel, draft the proper amendments to conform to 30% in Section 15-1-501, MCA. The motion carried unanimously. (motion includes adoption of amendments)

SENATOR REGAN asked Senator Blaylock to rerefer the bill to Finance and Claims when it comes to the floor of the Senate.

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SENATOR McCALLUM moved SB 271 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON SENATE BILL 172:

SENATOR REGAN moved to lay SB 172 on the table. The motion carried unanimously with Senator Yellowtail absent.

FURTHER ACTION ON SENATE BILL 271:

SENATOR SMITH moved to ask for a corrected fiscal note on SB 271 which would reflect the changes in the bill as per the amendments. The motion carried unanimously.

ACTION ON SENATE BILL 269:

SENATOR MAZUREK moved SB 269 DO PASS AS AMENDED. The motion carried with Seantors Pinsoneault and Regan voting no and Senator Yellowtail absent. (The bill was previously amended 2/8/85.)

CONSIDERATION OF HOUSE BILL 11:

SENATOR REGAN met with Chip Erdman and the Montana School Board Association won't support the bill as it was amended to reflect due process.


SENATOR PINSONEAULT moved HB 11 BE NOT CONCURRED IN.

SENATOR McCALLUM said this is a House Bill so rather than kill the bill, let it lie and see what develops.

SENATOR PINSONEAULT withdrew his motion.

ADJOURN:

There being no further business, the meeting adjourned.



Senator Chet Blaylock, Chairman

7/15/85

Education & Cultural Revolution

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretariat)

EXHIBIT #1
FEB. 15, 1985
SB 319
SEN. ED. & CULL
RES. COM.



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Ed Argenbright
Superintendent

February 14, 1985

To: Senator Chet Blaylock
Chairman, Education and Cultural
Resources Committee

From: Earl Britton *Earl Britton*
Department of Special Services
Office of Public Instruction

Re: Testimony on Senate Bill 319

The Office of Public Instruction supports this bill which provides for the appointment of a surrogate parent for a handicapped child and prescribes the responsibilities of a surrogate parent when appointed.

In 1975, P.L. 94-142, the Education for All Handicapped Children Act, was passed. In 1977, regulations to fully implement this law were promulgated. One component of the regulations and the law dealt with the necessity to have someone act as the parent for each child suspected of being handicapped. This person would give 1) permission for evaluations, 2) participate in the decision as to whether the child was handicapped and, if so, 3) assist in the development of an individual education program for the child and 4) give permission for the educational placement of the child. In most cases a natural parent or guardian is available for this responsibility. Federal regulations state that each public agency shall ensure that the student's rights are protected by the appointment of a surrogate parent when 1) no parent can be identified, 2) the public agency cannot discover the whereabouts of the parent, or 3) the child is a ward of the state under the laws of that state.

The regulation indicates that the public agency may select a surrogate parent in any way permitted under state law. However, the surrogate parent can have no interest that conflicts with the interest of the child he or she represents and that the surrogate has knowledge and skills that ensure adequate representation of the child.

In 1984, the Department of Education monitored the Montana State Education Agency for compliance to federal statute and regulations. Generally the report was very favorable. There was an exception in the area of surrogate parent procedures. The Department felt our State Education Agency was out-of-compliance here as there was no formal procedure implemented for appointment of surrogate parents in either the local school districts or the state-operated programs.

This issue is addressed in the Administrative Rules of Montana, 10.16.1104, which state that state and local education agencies may select a surrogate parent in any way permitted under state law. Since our state law does not address this issue, the legal staff for the Montana State Office of Public Instruction indicated it was necessary to request statutory language through the legislative process to properly address this issue of surrogate parents. Their legal opinion indicated that this addressment should include 1) a definition of surrogate parent, 2) policy approval by the Montana Board of Public Education, 3) training requirements, 4) responsibility for appointment and 5) the immunity from liability for the surrogate parent.

This bill addresses these concerns. We ask your favorable consideration on it.

EXHIBIT #2
FEB. 15, 1985
SB. 320
SENATE ED.
CULT. RES.

NAME GLORIA PALADICHUK BILL NO. SB 320

ADDRESS SIDNEY, MONTANA 59270 DATE February 15, 1985

WHOM DO YOU REPRESENT Richland County Treasurer

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I RISE IN SUPPORT OF SB 320. I THINK THIS IS A FAIR BILL, IT WILL CHANGE THE DISTRIBUTION OF EQUALIZATION COLLECTIONS FROM QUARTERLY TO A MONTHLY BASIS. THIS BILL WOULD ALSO REQUIRE THE 100% COUNTIES TO SEND THE SURPLUS COLLECTIONS TO THE STATE IMMEDIATELY AND EACH SUBSEQUENT MONTH THEREAFTER UNTIL THE END OF THE FISCAL YEAR.

THIS MONTHLY DISTRIBUTION TO THE SCHOOLS IS NOW BEING ADMINISTERED BY FIVE COUNTIES--NAMELY CASCADE, LEWIS & CLARK, MISSOULA, YELLOWSTONE, AND RICHLAND. NOW OF THESE FIVE COUNTIES, ONLY ONE IS A 100% COUNTY, AND THAT IS RICHLAND, WHEREBY WE SEND SURPLUS COLLECTIONS TO THE STATE IMMEDIATELY UPON REACHING THAT STATUS. THUS, RICHLAND COUNTY HAS A ZERO BALANCE AT ALL TIMES IN OUR EQUALIZATION FUND, AND THE COLLECTIONS ARE GOING WHERE THEY ARE RIGHTFULLY DUE--EITHER TO THE SCHOOLS OR TO THE STATE.

I BELIEVE THE FOUNDATION COLLECTIONS BELONG TO THE SCHOOLS IMMEDIATELY UPON COLLECTION AND WHEN THE 100% IS REACHED, IT IMMEDIATELY BELONGS TO THE STATE. WE HAVE IMPLEMENTED THIS PROCEDURE FOR TWO YEARS AND HAVE ENCOUNTERED NO PROBLEMS.

YOU OFTEN HEAR THERE ARE NO EQUALIZATION COLLECTIONS, ^{every month} SINCE REAL ESTATE TAXES ONLY COME IN TWICE A YEAR. HOWEVER, I REMIND YOU THE MOTOR VEHICLE REGISTRATIONS ARE NOW STAGGERED, THUS, WE HAVE REVENUE COLLECTIONS EVERY MONTH.

AS THE LAWS ARE NOW WRITTEN, THIS IS THE ONLY FUND THAT THE COUNTY TREASURERS ARE NOT REQUIRED TO GIVE TO THE PROPER RECIPIENT ON A MONTHLY BASIS. WE GIVE ALL OTHER COLLECTIONS TO THE SCHOOLS, CITIES, AND STATE ON A MONTHLY BASIS, AND I FEEL IT SHOULD BE LIKEWISE WITH THE EQUALIZATION COLLECTIONS.

PLEASE REMEMBER THIS WHEN MAKING YOUR DECISION REGARDING SB 320.

THANK YOU.

EXHIBIT #3
FEB. 15, 1985
SB 271
SEN. ED. L.
CULT. RES.

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING



TED SCHWINDEN, GOVERNOR

STATE CAPITOL

STATE OF MONTANA

(406) 444-3616

HELENA, MONTANA 59620

February 12, 1985

Senator Bill Norman
President of the Senate
State Capitol Station
Helena, MT 59620

Dear Senator Norman:

We have re-examined the fiscal note on Senate Bill 271 and the bill itself. Until the technical defects as stated in the fiscal note are clarified, it is impossible for my staff to prepare an impact statement that reflects the proper intent of the proposed legislation.

If these technical defects can be addressed in committee and subsequently clarified, my staff will prepare an amended fiscal note upon your request.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "David L. Hunter".

DAVID L. HUNTER
Director

DH:H:ea

STANDING COMMITTEE REPORT

..... FEBRUARY 18 19... 85.

MR. PRESIDENT

We, your committee on..... EDUCATION AND CULTURAL RESOURCES

having had under consideration..... SENATE BILL No... 319

first reading copy (white)
color

SURROGATE PARENT FOR HANDICAPPED CHILD IN EDUCATIONAL DECISION-MAKING

Respectfully report as follows: That..... SENATE BILL No... 319

be amended as follows:

1. Page 10, line 2.
Following: "trustees"
Insert: "of a school district or the governing authority of an institution"
2. Page 10, line 8.
Following: "trustees"
Insert: "of a school district or the governing authority of an institution"
3. Page 10, line 10.
Following: "trustees"
Insert: "of a school district or the governing authority of an institution"
4. Page 11, line 4.
Following: "district"
Insert: "or the governing authority of an institution"

(continued)

AND AS AMENDED

DO PASS

XXXXXXXXXX
DO NOT PASS

continued

.....
Chairman.

.....FEBRUARY 13..... 19.85....

5. Page 11, line 5.

Following: "trustees"

Insert: "of a school district or the governing authority of
an institution"

6. Page 11, line 7.

Following: "trustees"

Insert: "of a school district or the governing authority of
an institution"

7. Page 11, line 25.

Following: "trustees"

Insert: "of a school district or the governing authority of
an institution"

AND AS AMENDED

DO PASS

STATEMENT OF INTENT ADOPTED
AND ATTACHED

.....
Senator Chet Blaylock, Chairman

Mr. President,

We, your committee on Education and Cultural Resources having had under consideration Senate Bill 56, attach the following statement of intent:

49th Legislature

LC 1719

STATEMENT OF INTENT

SENATE BILL NO. 319

A statement of intent is required for this bill because it delegates rulemaking authority to the superintendent of public instruction. In preparing instructional and training material to be given to a person appointed as a surrogate parent, the superintendent should look to the material used in the state of Connecticut, which developed the surrogate parent concept. The superintendent should tailor the material to carefully delineate the procedure used in Montana for evaluating and placing handicapped children and devising educational programs for them. The material should specifically delineate the role of the surrogate in working with the child study team as early as possible.

Rules adopted by the superintendent concerning reimbursement of the surrogate parent should be aimed at fully reimbursing the surrogate while not creating a financial hardship to the school district. The rules should be such that people will not be financially discouraged from accepting appointment as a surrogate parent.

STANDING COMMITTEE REPORT

FEBRUARY 15, 1985

tee on **EDUCATION AND CULTURAL RESOURCES**

ns eration **HOUSE BILL** No. **267**

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color

ell will carry the bill.

ATE FOR REMITTING BASIC SCHOOL EQUALIZATION SURPLUS TO STATE

as follows: That **HOUSE BILL** No. **267**

ED IN

SENATOR CHET BLAYLOCK,

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 15, 1985

MR. PRESIDENT

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE BILL No. 320

first reading copy (white)
color

**REQUIRE COUNTY TREASURER TO REMIT ANY SURPLUS BASIC LEVY FUNDS
IMMEDIATELY**

Respectfully report as follows: That SENATE BILL No. 320

be amended as follows:

1. Page 2, line 16.
Following: "thereafter"
Strike: "until June 1"

2. Page 4, line 20.
Following: "thereafter"
Strike: "until June 1"

AND AS AMENDED
DO PASS

DO NOT PASS

Senator Chet Blaylock,

Chairman.

STANDING COMMITTEE REPORT

FEB 15,

1985

MR. PRESIDENT

We, your committee on.....**EDUCATION AND CULTURAL RESOURCES**.....

having had under consideration.....**SENATE BILL**..... No. **271**

first reading copy (white)
color

INCREASING INCOME TAX COLLECTIONS EARMARKED FOR SCHOOLS

Respectfully report as follows: That.....**SENATE BILL**..... No. **271**

be amended as follows:

1. Title, line 2.
Strike: "SECTION"
Insert: "SECTIONS 15-1-501 AND"
Strike: "APPLICABILITY"
Insert: "EFFECTIVE"

XXXXXX
XXXXXX
XXXXXX

XXXXXXXXXX
XXXXXXXXXX

CONTINUED

Chairman.

FEB 15, 1985

2. Page 3.

Following: line 3

Insert: "Section 2. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of moneys from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all moneys received by him from the collection of:

(a) automobile driver's license fees under subsections (1) through (6) of 51-5-111;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone [company] license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) Seventy-five Seventy percent of all moneys received from the collection of income taxes under chapter 30 and 75% of all moneys received from the collection of corporation license and income taxes under chapter 31, except as provided in 15-31-702, shall be deposited in the general fund subject to the prior pledge and appropriation of such income tax and corporation license tax collections for the payment of long-range building program bonds. The remaining 25% of the proceeds of the corporation license tax, excluding that allocated to the counties under 15-31-702, corporation income tax, and the remaining 30% of the proceeds of the income tax shall be deposited to the credit of the state special revenue fund for state equalization aid to the public schools of Montana.

(3) The state treasurer shall also deposit to the credit of the state general fund all moneys received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(4) Thirty-three and one-third percent of the total collections of the oil severance tax under chapter 36 shall be deposited into the local government block grant account within the state special revenue fund. After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections shall be deposited in the general fund."

Renumber: subsequent section

CONTINUED

FEB 15,

19 85

3. Page 3, line 4.

Strike: "Applicability"

Insert: "Effective"

4. Page 3, line 5.

Strike: "applies to taxable years beginning after December
31, 1984"

Insert: "is effective July 1, 1985"

AND AS AMENDED

DO PASS

BLAYLOCK

STANDING COMMITTEE REPORT

February 15, 1985

MR. PRESIDENT

We, your committee on **EDUCATION AND CULTURAL RESOURCES**

having had under consideration **SENATE BILL** No. **269**

first reading copy (**white**)
color

ENACT COMPACT TO JOIN EDUCATION COMMISSION OF THE STATES

Respectfully report as follows: That **SENATE BILL** No. **269**

be amended as follows:

1. Page 14, lines 2 through 17.
Strike: Section 2 in its entirety
Renumber: subsequent sections

AND AS AMENDED
DO PASS

~~XXXXXXXXXX~~

~~XXXXXXXXXX~~

Senator Chet Blaylock,

Chairman.