

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

February 13, 1987

The thirteenth meeting of the Senate Education and Cultural Resources Committee was called to order by the chairman, Senator Bob Brown, at 1:02 p.m. in Room 402 of the Capitol Building.

ROLL CALL: All committee members were present except Senator McCallum, who was excused.

CONSIDERATION OF SENATE BILL 302: SENATOR JERGESON, District 8, sponsor of the bill, said it was brought to his attention by the Montana School Boards Association and the Havre High School District. In a situation where a troubled youth had to be placed in an institution in Minnesota, the Havre district had to pay tuition of \$48 per day. Havre appealed that decision and it went to the Supreme Court. The question is who is responsible. The schools or the agencies charged with the care of the youth. He felt the school segment of the child's support is a limited resource and they shouldn't have to say. Senator Jergeson said the fiscal note is nebulous as costs are open-ended. President Norman felt the fiscal note was probably not needed, however, SRS wanted one as they could end up paying.

PROPOSERS: RICK BARTOS, Office of Public Instruction said the legislature now has the opportunity to take care of this before the Supreme Court decision is handed down in 30-60 days. The Havre school district felt they could educate the child, his problem was a social behavioral one, not an educational one. The school was not involved at all in the decision making process. The District Judge drew up the orders saying the school district is responsible for educational costs. The issue is who is going to say not what to do with the child. He felt the school district needs to have some say rather than an arbitrary decision being made. As Minnesota does not have a reciprocal tuition agreement, therefore, Havre had to pay. He said this is not an education issue; it is a social issue

BRUCE MOERER, Montana School Boards Association, said he participated in the Supreme Court hearing. He said he was not sure of the data in the fiscal note. He felt

SRS must have furnished the information as MSBA and OPI didn't. He felt that since the school could provide the education opportunity locally, they should not have to pay for it out of state. Mr. Moerer said the law is ambiguous and needs clarification. Costs need to be placed in the appropriate area. This was a youth court placement and the sending agency should be responsible for paying the costs incurred.

OPPONENTS: JOHN MADSEN, Social and Rehabilitation Services, presented his written testimony in opposition to the bill. (Exhibit 1)

There were no further opponents.

DISCUSSION BY COMMITTEE MEMBERS: SENATOR PINSONEAULT asked what the bill does exactly.

MR. MOERER said in this case, there was no involvement whatsoever of the educational agency when the youth court made the placement decision. The school district was not notified of the hearing date. The district loses the ANB for the student, yet must pay \$48 per day for him to the Minnesota institution. The student was going for correction, not education.

SENATOR PINSONEAULT asked if the Judge knew who was picking up the tab.

MR. BARTOS said no, he didn't. The probation officer told the judge the student needed to go to this particular program and the judge arbitrarily said the school will pay for it.

SENATOR BLAYLOCK asked if this would happen if the placement were education related.

MR. BARTOS said if a child is in special education by a determination of a child study team and they determined an out-of-state placement was necessary, then yes, they would pay.

SENATOR JERGESON closed.

EXECUTIVE SESSION

ACTION ON SENATE BILL 302: SENATOR BLAYLOCK moved SB 302 DO PASS.

SENATOR MAZUREK said it seems fair that some tuition ought to follow if it does in-state, it should out-of-state.

SENATOR REGAN felt whatever the ANB is in the district should follow the student out of state and SRS should pick up the rest.

MR. MOERER said the whole statute needs clarification with respect to in or out of state tuition payments.

SENATOR REGAN moved to amend SB 302 to pay the out-of-state district's educational costs by paying the ANB for the student in-district, and the cost above the ANB amount to be taken from the district (elementary) or county (high school) equalization fund. Other associated costs would be borne by SRS or other agencies. These amendments are to be drawn up by the committee attorney.

SENATOR BLAYLOCK felt the state equalization fund should pay as it does now in these cases. In other words, they would pay whatever they would pay if the student was still in-district.

SENATOR BLAYLOCK withdrew his DO PASS motion.

The motion by SENATOR REGAN PASSED UNANIMOUSLY in concept, and the amendments will be drawn for final approval. (For final copy of amendments, see minutes of February 18, 1987).

ACTION ON SENATE BILL 199: SENATOR BROWN presented the proposed amendments. (Exhibit 2) He said the amendments address the problem with schools that get little or no funding from the equalization fund.

SENATOR BROWN further explained if the receiving district gets 25% or less from the state, they could get the full amount up to 35%. Those districts over 25% would receive 15%.

SENATOR REGAN felt the 15% figure was too low. She moved to strike 15% on page 1, line 18, and insert 20%. (as per amendment #6, Exhibit 3). She felt 20% with the safeguards in the amendments will be adequate. The motion CARRIED with Senator Smith voting no.

SENATOR MAZUREK moved the amendments as per Exhibit 2. The motion CARRIED with Senators Pinsoneault, Hammond and Smith voting no.

SENATOR BLAYLOCK moved Senate Bill 199 DO PASS AS AMENDED. The motion CARRIED with Senators Pinsoneault, Hammond and Smith voting no.

ACTION ON SENATE BILL 235: SENATOR MAZUREK moved to amend the bill as per the amendments on the attached Standing Committee Report (Exhibit 4). He said this gives the opportunity for two hold-backs, i.e., if a student starts a year late and then gets held back a year, he would still be covered by the provisions of the bill.

The motion CARRIED unanimously.

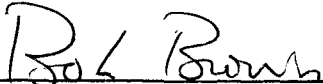
SENATOR MCCALLUM moved Senate Bill 235 DO PASS AS AMENDED. The motion CARRIED with Senator Blaylock voting no.

ACTION ON SENATE BILL 276: SENATOR PINSONEAULT moved the amendments as per the attached standing committee report. (Exhibit 5) The motion CARRIED unanimously with Senator Blaylock voting no.

SENATOR PINSONEAULT moved Senate Bill 276 DO PASS AS AMENDED. The motion CARRIED unanimously with Senator Blaylock absent.

ACTION ON SENATE BILL 301: SENATOR MCCALLUM moved Senate Bill 301 DO NOT PASS. He said there is a technical problem with establishing another fund when we already have seventeen. He felt it should be a cash appropriation or cash expenditure. The motion CARRIED unanimously.

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



SENATOR BOB BROWN, Chairman

jdr

ROLL CALL

SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/13

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

Each day attach to minutes.

TESTIMONY OF THE DEPARTMENT OF BILL NO. SB 302
SOCIAL AND REHABILITATION SERVICES
REGARDING SENATE BILL 302
(INTRODUCED BILL)

My name is John Madsen and I am testifying on behalf of the Department of Social and Rehabilitation Services in opposition to Senate Bill 302. The department opposes Senate Bill 302 because it limits the school district's responsibility for tuition costs for children who are required to attend high school outside their district of residence as a result of a court order. By statute, the Department of Social and Rehabilitation Services is responsible to pay for the foster care of all children placed in foster care pursuant to a court order. Currently, the local school districts and the Office of Public Instruction provide for the cost of education for these children.

If the amendment proposed by Senate Bill 302 passes, the local school districts would no longer be responsible to approve a tuition application for the many children who are placed in out-of-state youth care facilities pursuant to court order. There are currently 42 children who have been placed in treatment facilities located outside the state of Montana by order of the court. In many cases these children require intensive treatment because they have been abused or neglected or because they suffer from emotional illnesses. Unfortunately, Montana does not have sufficient numbers of facilities to treat all children who come before the court either through dependency and neglect actions or through the youth court proceedings.

SENATE EDUCATION

EXHIBIT NO. 7DATE 2/13/87BILL NO. SB 302

If Senate Bill 302 passes, the local school districts would be relieved of their responsibility to approve tuition applications for children who are required to attend high school outside the state of Montana as a result of a court order. Currently, the department does not pay for any educational costs for children placed in out-of-state facilities. If the local school districts are relieved of their responsibility to approve a tuition application for such children, there would be no available funding to pay for the cost of education of the children in out-of-state facilities who are not eligible for special education funding. The Department of Health and Human Services has determined that federal foster care funds may not be used to pay for the cost of education of youth placed in youth care facilities.

If Senate Bill 302 passes, there will be a vacuum created regarding the payment of tuition costs for children placed in out-of-state facilities by court order. If the child is not eligible for special education funding, there would be no entity available to pay the cost of education. Currently, the department does not receive an appropriation for educational costs and has no statutory responsibility to pay the cost of education. The department's budget for foster care is determined upon the historical payment made for room, board and treatment costs. The costs of education are not included in the department's budget for foster care.

However, if courts order the department to assume financial responsibilities for youth placed in out-of-state facilities by the court, the department would be forced to use general fund

SENATE EDUCATION

EXHIBIT NO. 7

DATE 7/13/87

BILL NO. SB 312

money which has been appropriated for foster care. This will create an even greater demand on the foster care budget.

If Senate Bill 302 passes, it will create confusion in determining which agency is responsible for the cost of education for youth placed in out-of-state facilities by court order. If this committee does not intend for the local school districts to share in the cost of education for these youths, it is necessary for the legislature to provide an appropriation to the department or other appropriate entity to cover the costs of education for those youths placed in out-of-state facilities by the courts who are not eligible for special education funding. Until this is done, Senate Bill 302 will only cause confusion in an already confused situation. Therefore, on behalf of the Department of Social and Rehabilitation Services, I urge this committee to vote do not pass on Senate Bill 302.

PROPOSED AMENDMENTS FOR SB 199
Senator Brown

1. Title, line 4.
Following: "ACT"
Strike: "TO LIMIT"
Insert: "LIMITING"

2. Title, line 6.
Following: "YEAR;"
Insert: "ESTABLISHING A SCHEDULE OF PAYMENTS FOR
DISTRIBUTION OF EQUALIZATION AID; PROVIDING A
TRANSITION PERIOD;"

3. Title, line 7.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "20-9-104,"
Insert: "AND 20-9-344,"
Following: "MCA"
Insert: "; AND PROVIDING AN APPLICABILITY DATE AND AN
EFFECTIVE DATE"

4. Page 1, line 11.
Following: "reserve."
Insert: "(1)"

5. Page 1.
Following: line 25
Insert: "(2) If state equalization aid is less than 25% of
the foundation program revenue generated in a county
pursuant to 20-9-331 and 20-9-333, then the cash
reserve fund may not exceed 35% of the final general
fund budget for the ensuing school fiscal year."

6. Page 1.
Following: line 25
Insert: "Section 2. Section 20-9-344, MCA, is amended to
read:
20-9-344. Purpose of state equalization aid and duties
of the board of public education for distribution --
conditions of first payment. (1) The money available
for state equalization aid shall be distributed and
apportioned to provide an annual minimum operating
revenue for the elementary and high schools in each
county, exclusive of revenues required for debt service
and for the payment of any and all costs and expense
incurred in connection with any adult education
program, recreation program, school food services
program, new buildings, new grounds, and
transportation.

(2) The board of public education shall administer and distribute the state equalization aid in the manner and with the powers and duties provided by law. To this end, the board of public education shall:

(a) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law and in a manner that would most effectively meet the financial needs of districts;

(b) have the power to require such reports from the county superintendents, budget boards, county treasurers, and trustees as it may deem necessary; and

(c) order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to such aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of public education shall not increase or decrease the state equalization aid distribution to any district on account of any difference which may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(3) Should a district receive more state equalization aid than it is entitled to, the county treasurer must return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the department of commerce.

~~(4) The first payment of state equalization aid must be:
----(a) based on an estimate of 20% of each district's entitlement; and
----(b) distributed by July 15 of the school fiscal year.~~

(4) State equalization aid must be distributed every 2 months in five equal payments, with:

(a) the first payment:

(i) distributed by July 31 of the school fiscal year; and

(ii) based on an estimate of 20% of each district's entitlement; and

(b) the last payment distributed by March 31 of the school fiscal year.

NEW SECTION Section 3. Transition--applicability.

(1) A school district may reduce its general fund cash reserve in three equal increments one increment each school fiscal year.

(2) The provisions of 20-9-104 are applicable to every school district after June 30, 1990.

NEW SECTION Section 4. Extension of authority. Any

existing authority of the board of public education to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION Section 5. Effective date. This act is effective July 1, 1987."

EXHIBIT NO. 3

DATE 2/13

February 16, 1987

MR. PRESIDENT BILL NO. SB 199

EDUCATION AND CULTURAL RESOURCES

We, your committee on.....

SENATE BILL 199

having had under consideration..... No.....

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LIMIT CASH RESERVE FUND OF A SCHOOL DISTRICT TO 15% OF GENERAL FUND BUDGET

Respectfully report as follows: That Senate Bill 199

Be amended as follows:

1. Title, line 4. Following: "ACT" Strike: "TO LIMIT" Insert: "LIMITING"

2. Title, line 5. Strike: "15" Insert: "20"

3. Title, line 6. Following: "YEAR;" Insert: "ESTABLISHING A SCHEDULE OF PAYMENTS FOR DISTRIBUTION OF EQUALIZATION AID; PROVIDING A TRANSITION PERIOD;"

4. Title, line 7. Strike: "SECTION" Insert: "SECTIONS" Following: "20-9-104" Insert: "AND 20-9-344" Following: "MCA" Insert: "; AND PROVIDING AN APPLICABILITY DATE AND AN EFFECTIVE DATE"

5. Page 1, line 11. Following: "reserve." Insert: "(1)"

DO PASS

DO NOT PASS

STATE EDUCATION

EXHIBIT NO. 3

February 16, 87

DATE 2/13/87

19.....

BILL NO. SB 199

6. Page 1, line 18.
Following: "35%"
Strike: "15%"
Insert: "20%"

7. Page 1.
Following: line 25

Insert: "(2) If state equalization aid is less than 25% of the foundation program revenue generated in a county pursuant to 20-9-331 and 20-9-333, then the cash reserve fund may not exceed 35% of the final general fund budget for the ensuing school fiscal year.

Section 2. Section 20-9-344, MCA, is amended to read:

"20-9-344. Purpose of state equalization aid and duties of the board of public education for distribution -- conditions of first payment. (1) The money available for state equalization aid shall be distributed and apportioned to provide an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service and for the payment of any and all costs and expense incurred in connection with any adult education program, recreation program, school food services program, new buildings, new grounds, and transportation.

(2) The board of public education shall administer and distribute the state equalization aid in the manner and with the powers and duties provided by law. To this end, the board of public education shall:

(a) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law and in a manner that would most effectively meet the financial needs of districts;

(b) have the power to require such reports from the county superintendents, budget boards, county treasurers, and trustees as it may deem necessary; and

(c) order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to such aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of public education shall not increase or decrease the state equalization aid distribution to any district on account of any difference which may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

SENATE EDUCATION

EXHIBIT NO. 3

February 16, 1987

DATE 2/13/87

BILL NO. SB 199

(3) Should a district receive more state equalization aid than it is entitled to, the county treasurer must return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the department of commerce.

~~(4) The first payment of state equalization aid must be based on an estimate of 20% of each district's entitlement; and (b) distributed by July 15 of the school fiscal year.~~

(4) State equalization aid must be distributed every 2 months in five equal payments, with:

- (a) the first payment:
 - (i) distributed by July 31 of the school fiscal year; and
 - (ii) based on an estimate of 20% of each district's entitlement; and
- (b) the last payment distributed by March 31 of the school fiscal year."

NEW SECTION. Section 3. Transition--applicability.

- (1) A school district may reduce its general fund cash reserve in three equal increments, one increment each school fiscal year.
- (2) The provisions of 20-9-104 are applicable to every school district after June 30, 1990.

NEW SECTION. Section 4. Extension of authority. Any existing authority of the board of public education to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 5. Effective date. This act is effective July 1, 1987."

AND AS AMENDED,
DO PASS

SENATOR BOB BROWN, CHAIRMAN

STANDING COMMITTEE REPORT

SENATE EDUCATION

February 16, 1937

MR. PRESIDENT

EXHIBIT NO. 4

DATE 2/19/37

We, your committee on SENATE BILL EDUCATION

having had under consideration..... SENATE BILL No. 235

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CHANGE DEFINITION OF PUPIL TO INCLUDE PEOPLE WHO ARE 19 YEARS OLD

Respectfully report as follows: That..... SENATE BILL No. 235

be amended as follows:

1. Title, lines 4 and 5.

Following: "ACT"

Strike: "CHANGING THE DEFINITION OF PUPIL TO INCLUDE PEOPLE WHO ARE 19 YEARS OLD AND THEREBY"

2. Page 3, line 23.

Following: "19th"

Strike: "20th"

Insert: "19th"

3. Page 3, line 25.

Following: "expense."

Insert: "For purposes of calculating the average number belonging (A&B) pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached his 19th birthday by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public expense."

And as amended,

DO PASS

DO NOT PASS

.....SENATOR BOB BROWN,.....

Chairman.

SENATE EDUCATION **STANDING COMMITTEE REPORT**

EXHIBIT NO. 5

DATE 2/13/87

BILL NO. SB 276

FEBRUARY 16, 19 87

MR. PRESIDENT

We, your committee on EDUCATION

having had under consideration SENATE BILL No. 276

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color

COUNTY COMMISSIONERS TO REVIEW HIGH SCHOOL DISTRICT TRANSFER OF TERRITORY

Respectfully report as follows: That SENATE BILL No. 276

be amended as follows:

1. Page 2, line 19.
Following: "signed by"
Strike: "each member"
Insert: "by a majority"

2. Page 2, line 20.
Following: "met"
Insert: "."
Strike: the remainder of subsection (3)(a)

And as amended,

DO PASS

XXXXXXXXXX
DO NOT PASS

SENATOR BOB BROWN

Chairman.

SENATE BILL #301

1. This bill would allow a school district to take the ending cash balance of the School District's general fund and transfer it to a new non-budgeted fund to use in the future for the purchase of anything of a non-salary nature.
2. The general fund is a budgeted fund and can only be used in the manner prescribed by the adopted budget. It is also the fund that is supported by the foundation program and voted levies.
3. At present, the ending cash balance can be used only for stated purposes:
 - a. Add to the reserve -- The reserve is limited by law.
 - b. Used as a source of revenue for the ensuing budget -- There is a procedure and a public review of the budget process.
 - c. Used to reduce the voted levy.
4. The amount that could be put into this fund is limited to 25% of the cost of the designated purchase. "designated school purchase" means a purchase of any non-salary item allowed in the general fund. This is so broad that it would seem to be an area where monies raised by voted levies in the general fund could be diverted from the purposes stated for the voted levy.
5. This bill just creates another fund to add to the present 17 funds that a school district can use. Its only purpose is to provide a place to store and spend general fund monies without the constraints of the budgeted general fund or the year in which the expenditures should have been made.

STANDING COMMITTEE REPORT

February 16, 1937

MR. PRESIDENT

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE BILL No. 301

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**SCHOOL TRUSTEES TO ESTABLISH RESERVE FUND FOR SPECIAL
SCHOOL PURCHASES**

Respectfully report as follows: That SENATE BILL No. 301

~~DO PASS~~

DO NOT PASS

SENATOR BOB BROWN,

Chairman.