

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

February 20, 1987

The eleventh meeting of the Senate Finance and Claims Committee met on the above date in room 108 of the State Capitol. The meeting was called to order to hear two Senate Bills, 362 and 370.

ROLL CALL: All members present.

CONSIDERATION OF SENATE BILL 362: Senator Jacobson, Senate District 36 and chief sponsor of Senate Bill 362, said this is a committee bill that came out of the subcommittee on higher education and it was an unanimous vote by the committee. Senator Smith had a bill in the last session dealing with rules that are implemented by the Board of Education and it had a financial impact on the school districts and attempted to put into place a system of getting a fiscal note from the office of Public Instruction (OPI) so that we would have a better handle on what the costs of those school districts, and particularly the small school districts would have in these mandated programs. The Board of Education came to us with a modified request asking for a fiscal person to be put into their office because they were not getting financial information on a timely basis from the OPI and they wanted to do it within their losses. We took a look at the legislation and decided that probably we would either have to change the statute around or give them the fiscal person. We didn't want to expand the office that much so we brought this bill in. On line 20-22 it is saying that using criteria assumptions developed by the board, the fiscal note must be prepared, we put in a time limit of 30 days for the OPI to get the fiscal note prepared unless the Board of Education would agree to a longer time. On page 2 we changed some wording around saying that if the financial impact of the proposed rule, policy or standard is found by the board to be substantial the Board may not implement the rule until July 1 after the next regular session. The reason for this wording was that Senator Smith had intended that the legislature would make a conscious decision on whether or not we wanted programs in the schools mandated that were going to cost the schools more money.

PROPOSERS TO SENATE BILL 362: Claudette Morton, Executive Secretary, Board of Education, her testimony is attached as exhibit 1, Senate Bill 362.

There were no further proponents, no opponents, and Senator Regan asked if there were questions from the committee.

QUESTIONS FROM THE COMMITTEE: Senator Regan asked Senator Jacobson, what do you think about the proposed amendment, adding the word "average" before existing? Senator Jacobson answered, I certainly cannot tell you whether I think you should put the word in, but I can tell you what you will do if you do that. I think Senator Smith's concern last session was mainly with the smaller schools that can't afford some of these mandated programs. The Board came to us in the subcommittee and asked if we would change the wording around. In effect, what it would have done was to say they could mandate the programs and then leave it up to the schools if they could not financially put them into place. It was our feeling that Senator Smith's intention was not to put the burden of proof on the school district but rather on the Board of Education, so we rejected that amendment. In essence what this amendment would do is to say that any school must put these programs into place if this doesn't substantially, financially affect the average school district which leaves the small school district hanging out there once again.

Senator Jacobson said she closed.

DISPOSITION OF SENATE BILL 362: Motion by Senator Manning that Senate Bill 362 do pass.

Question was called, the motion was voted, passed, unanimous.

CONSIDERATION OF SENATE BILL 370: Senator Jacobson, Senate District 36, and chief sponsor of Senate Bill 370 said this bill is another bill that came out of the subcommittee on Higher Education with a unanimous vote. This bill will put into statute some rules regarding the School for the Deaf and Blind and the transportation that is utilized for their students. It only affects the students for in-residence at the school and affects their transportation to and from their school and their home during the school year. In 1978 they put a program in place to make sure the child had some opportunity to be with their families at regular intervals. The Legislature began appropriating funds for this transportation in 1980. It came to our attention this session that because in some areas where they had been using public transportation that transportation was no longer available. We felt the state was hanging out on a liability issue. We looked at the idea of having parents pick up their children and the fiscal note of that would have been about \$90,000 per year to reimburse the parents, and this did not include the cost of meals or keeping a cottage open in the event someone could not pick up their children. We looked at some other means of transportation--some by bus,

some by plane, some by parents, but the fiscal note--the current level budget was about \$25,000 or \$26,000 a year. This will be \$51,000 the first year and \$52,000 the second year. We felt under the circumstances it was better to go this route than end up with a big lawsuit because we were using the vans that were not meeting the criteria.

PROPOSERS TO SENATE BILL 370: Claudette Morton, Board of Education which has supervisory responsibilities for the School for the Deaf and Blind. Her testimony is attached as Exhibit 1, Senate Bill 370.


Senator Jacobson said she had an amendment that should be put on the bill on page 2, line 1 after "other transportation arrangements" to insert the words ", provided that such transportation is by a carrier of passengers certified by the Public Service Commission and".

DISPOSITION OF SENATE BILL 370: Moved by Senator Jacobson to adopt the amendments. Voted, passed.

Motion by Senator Bengtson that Senate Bill 370 as amended do pass. Voted, passed.

The statement of intent was voted and passed.

The meeting was adjourned at 6:52 p.m.



Senator Pat Regan, Chairman

ROLL CALL

50th LEGISLATIVE SESSION - - 1987

Date 2-20-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR REGAN	✓		
SENATOR HIMSL	✓		
SENATOR JACOBSON	✓		
SENATOR BENGTON	✓		
SENATOR STIMATZ	✓		
SENATOR HARDING	✓		
SENATOR HAFNEY	✓		
SENATOR SMITH	✓		
SENATOR KEATING	✓		
SENATOR STORY	✓		
SENATOR BOYLAN	✓		
SENATOR JERGESON	✓		
SENATOR TVEIT	✓		
SENATOR MANNING	✓		
SENATOR HAMMOND	✓		
SENATOR GAGE	✓		

exh 1



Board of Public Education

BOARD MEMBERS

EX OFFICIO MEMBERS:

- Ted Schwinden, Governor
- Ed Argenbright, Superintendent of Public Instruction
- Carrol Krause, Commissioner of Higher Education

APPOINTED MEMBERS:

- Ted Hazelbaker, Chairman
Dillon
- Alan Nicholson, Vice-Chairman
Helena
- James Graham
Ismay
- Sarah "Sally" Listerud
Wolf Point
- Arthur "Rocky" Schauer
Libby
- Bill Thomas
Great Falls
- Thomas A. Thompson
Browning

Claudette Morton
Executive Secretary

TESTIMONY TO THE SENATE FINANCE AND CLAIMS COMMITTEE
ON FEBRUARY 20, 1987

IN SUPPORT OF SB362 - AN ACT TO CLARIFY RESPONSIBILITY
FOR DETERMINING THE FINANCIAL IMPACT OF RULES, POLICIES,
AND STANDARDS PROPOSED BY THE BOARD OF PUBLIC EDUCATION;
AND AMENDING SECTION 20-2-115, MCA

By Claudette Morton, Executive Secretary
Board of Public Education

The Board of Public Education supports SB362. Section 20-2-115 MCA was passed in the 49th Legislature. As you can see it requires the board to adopt a fiscal note procedure and to determine if a proposed new rule has substantial fiscal impact before the board can proceed to rulemaking. At the time of its passage the Legislature was concerned that the board not impose expensive new rules on the schools of Montana without the Legislature funding those new programs. What the Legislature did was to impose a very expensive new law on the Board of Public Education without providing the means for the board to meet these new requirements. With this requirement the board receives fiscal information from the Superintendent of Public Instruction but it also needs additional information and analysis to make the independent judgement. Because the agency staff is so small it is impossible for them to assume additional responsibility of this magnitude.

The Joint Education Appropriations Sub-committee, in examining the board's budget, concurred that we cannot meet the

SENATE FINANCE AND CLAIMS
 EXHIBIT NO. 1
 DATE 8-30-87
 BILL NO. SB 362

existing law with the present staff and, therefore, suggested these amendments, which the board supports.

However, an even more crucial issue is that with the existing legislation the board is prohibited from exercising its constitutional responsibility. While we recognize the need for the board to have fiscal responsibility, the current definition of "substantial financial impact" (lines 7-9 on page 2) in reality prohibits the board from enacting any new rule changes in this area. In Montana there are rural schools with total budgets as small as \$20,000. There are also schools in Montana with budgets well over \$1,000,000. We would ask this committee to consider one additional amendment and that is to add in line 9 of page 2 the word "average" before school district program. The board is well aware of its responsibility to small schools and has tried in the past to write its rules appropriately so that different size schools have some flexibility in meeting them. The addition of this one word does not take away the board's responsibility, ~~but it would prevent the board from considering any legal action regarding the issue of its constitutional powers.~~ In the spirit of cooperation we urge your support of the amendments proposed in SB362 and ^{we ask your consideration of} the additional amendment proposed by the board.

SENATE FINANCE AND CLAIMS
ENROLLMENT NO. 1
DATE 2-20-67
BILL NO. SB 362

STATEMENT OF INTENT

1 Bill No. 370

A statement of intent is required for this bill because section 1 provides for rulemaking by the board of public education with regard to the method of and reimbursement for transportation of residential and boarding students at the Montana school for the deaf and blind to and from the student's residence during the school year.

It is the intent of the legislature that the board of public education adopt rules that consider the most cost-effective and convenient method of providing for the transportation of each residential student at the school, within the limitations of the act.

ROLL CALL VOTE

SENATE COMMITTEE

FINANCE AND CLAIMS

DATE 2-20-87 Senate Bill No. 362 Time _____

NAME	YES	NO
SENATOR HIMSL	✓	
SENATOR JACOBSON	✓	
SENATOR BENGTON	✓	
SENATOR STIMATZ	✓	
SENATOR HARDING	✓	
SENATOR HAFHEY	✓	
SENATOR SMITH	✓	
SENATOR KEATING	✓	
SENATOR STORY	✓	
SENATOR BOYLAN	✓	
SENATOR JERGSON	✓	
SENATOR TVEIT	✓	
SENATOR MANNING	✓	
SENATOR HAMMOND	✓	
SENATOR GAGE	✓	
SENATOR REGAN	✓	

Sylvia Kinsey
Secretary

Senator Regan
Chairman

MOTION: Do pass

ROLL CALL VOTE

SENATE COMMITTEE

FINANCE AND CLAIMS

DATE 2-20-87

Senate

Bill No. 370

Time 6:51

NAME	YES	NO
SENATOR HIMSL		✓
SENATOR JACOBSON	✓	
SENATOR BENGTON	✓	
SENATOR STIMATZ	✓	
SENATOR HARDING	✓	
SENATOR HAFHEY	✓	
SENATOR SMITH	✓	
SENATOR KEATING	✓	
SENATOR STORY	✓	
SENATOR BOYLAN	✓	
SENATOR JERGSON	✓	
SENATOR TVEIT	✓	
SENATOR MANNING	✓	
SENATOR HAMMOND	✓	
SENATOR GAGE	✓	
SENATOR REGAN	✓	

Sylvia Kinsey
Secretary

Senator Regan
Chairman

MOTION: To pass as Amended

STANDING COMMITTEE REPORT

.....February 20..... 19 87....

MR. PRESIDENT

We, your committee on.....**FINANCE AND CLAIMS**.....

having had under consideration.....**Senate Bill**..... No. **362**.....

first reading copy (**white**)
color

**CLARIFY RESPONSIBILITY FOR FISCAL NOTE FOR RULES OF BD. OF PUBLIC
EDUCATION**

Respectfully report as follows: That.....**Senate Bill**..... No. **362**.....

DO PASS

~~DO NOT PASS~~

.....
Senator Pat Regan

Chairman.

STANDING COMMITTEE REPORT

February 20 19 87

MR. PRESIDENT

We, your committee on FINANCE AND CLAIMS

having had under consideration Senate Bill No. 370

first reading copy (white)
color

CLARIFY TRAVEL EXPENSES FOR BOARDING STUDENTS AT DEAF AND BLIND SCHOOL

Respectfully report as follows: That Senate Bill No. 370,
be amended as follows:

1. Page 2, line 1.

Following: "arrangements"

Insert: ", provided that such transportation is by a carrier of
passengers certified by the public service commission and"

AND AS AMENDED,

DO PASS.

DO NOT PASS

STATEMENT OF INTENT ATTACHED *Pat Regan*

Senator Pat Regan

Chairman.