

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - SPECIAL SESSION**

COMMITTEE ON EDUCATION

Call to Order: By Senator Blaylock, on December 8, 1993, at 9 A.M.

ROLL CALL

Members Present:

Sen. Chet Blaylock, Chair (D)
Sen. John Brenden (R)
Sen. Bob Brown (R)
Sen. John Hertel (R)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)
Sen. Bill Wilson (D)
Sen. Bill Yellowtail (D)

Members Excused:

Senator Harry Fritz

Members Absent: None

Staff Present: Eddye McClure, Legislative Council
Sylvia Kinsey, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None
Executive Action: SB 34

EXECUTIVE ACTION ON SENATE BILL 34

Motion: Senator Yellowtail moved to AMEND SB 34 (exhibit 1)

Discussion: Senator Yellowtail said the intention of his amendment is that the effectiveness of this bill would be delayed until after the vote on Referendum 112, which is the HB 671 Referendum. The basic concept is to permit school districts continuation of state funding for transportation until such time as that issue is decided and they have adequate time to make their transportation plans depending on the outcome of the referendum. The entire concept of SB 34 is dependent on the revenue that would have been generated by SB 671 and this bill is about making hard choices and planning ahead for the likelihood

that the referendum will have the effect of permanently killing HB 671. This amendment would grant school districts time to accommodate that likelihood and for state funding to continue for transportation plans up to that time, this is a reasonable and necessary consideration for this bill.

Chair Blaylock said the effect of your amendment would be that school transportation would be left alone for the next school year (the '95-'96) school year, but if 671 fails, this kicks in and if 671 passes, this whole thing is void. Senator Yellowtail answered yes, that was correct.

Senator Brown said Senator Yellowtail had asked Ms. McClure in committee to check to see whether this could be done and Ms. McClure has done so. He asked whether she had offered an opinion or whether Mr. Petesch or someone else did and pointed out that the constitution says you cannot have more than one title in a bill. An old rule of parliamentary procedure is if you propose an idea to be voted on, the question could be divided if more than one concept is in it. He pointed out that a person might be for or against Referendum 112, and might be for or against whether we pay for transportation for schools, but we might have people who would not necessarily vote for both those things. He said a citizen in the voting booth cannot divide the question. He was concerned that this amendment would not pass constitutional muster. He said when people went to vote, they were being asked to vote on two things and could not segregate them in the voting booth.

Senator Yellowtail said it seemed to him that the people bear that responsibility as they vote on Referendum 112 in general. This Legislature is fixing to impose reductions in services to Montanans commensurate with the effect of the outcome of that referendum. He believed people would be doing that when they voted, and he would hope they understand that when they vote. This is simply a technical means of adapting transportation funding to the outcome of that referendum, imposing technically no new condition on the outcome of that referendum.

Senator Brown said he might decide he wanted to vote for 671, but might have a different priority in mind. You would foreclose on my priority by saying this is the choice. Senator Yellowtail said if we are talking about closing people's options, the petition process has foreclosed the options of roughly 80% of the Montanans who did not sign that petition. He asked Ms. McClure for her comment on this question.

Ms. McClure said she had gone over this with Mr. Petesch and that was the only to accomplish what Senator Yellowtail wanted to do. She said it is her understanding in House Bill 2 there is some language being drafted that the cuts being made in HB 2 might be void pending the vote on 671. If we are going to tie this to 671, which was his request, this is how we do it in this bill. Mr. Petesch did not seem to think it would be a problem

constitutionally or he would have told her at the time.

Senator Yellowtail said to finish his understanding of this process, he believed Montanans will vote on referendum 112 understanding that the effect will be to either remove or restore significant revenue that has enormous implications for Human Service, Education etc. across the state. Montanans may have a varied set of priorities as they approach the ballot box and have all kinds of reasons as to how they mark their ballots. This amendment is meant to be a practical implementation process for this particular legislative proposal, not to impose any additional feature onto the referendum.

Senator Brown said he was surprised Mr. Petesch did not see it as he did, and it was still a problem to him since it limits him as a voter in looking at HB 671. He said if we allow this to proceed we could hang the whole appropriation process on 671 and everybody could get into a bidding war about who gets in a line first if 671 passes. He could not recall this happening before.

Senator Yellowtail said he had no idea of the history of referenda in this state, but was his personal feeling that the entire appropriation actions of this special session of Legislature ought to be contingent on the effect of referendum 112 because we are fixing to affect enormous deleterious affects on a full range of services, that might not be necessary if the outcome of referendum 112 is to restore SB 671. He could see nothing wrong with that and believed the citizens of this state need to understand, in very direct terms, the implications of that vote. He said he was not certain that people who signed the petition were fully aware of what the results could be.

Senator Stang asked about the comment during the hearing which said this bill was a kin to blackmail. He feared that if an amendment such as this is put in the bill, it will appear to be obvious blackmail. It will look like we, as the Legislature, have said we will blackmail you into voting for 671.

Senator Yellowtail said the charge of blackmail is a spurious charge, but it will fly thick and heavy. If this Legislature were to be deterred by that charge, we would be paralyzed in this entire process. Every action this special session of the Legislature takes will be to reduce services for some Montanan who thinks it is very important and will view the outcome of referendum 112 as crucial to their interest. There is potential that every action of this Legislature will be viewed as blackmail in the campaign leading up to that referendum. Everyone will say you have to vote for or against that referendum because here is the implication. We could argue that the signing of the petition was based on blackmail because if you don't sign this petition, your taxes are going to go up. He said he believed the charge of blackmail will be thrown "willy-nilly" in the up-coming campaign in regard to referendum 112. Senate Bill 34 is not intended as blackmail, it is to open the ability of future legislatures to

adjust to the likely outcome that HB 671 will be permanently laid to rest in the up-coming referendum.

Senator Stang said in light of the fact that this bill does away with all of the bus transportation funding including the county levy, this bill provides that the taxpayers at the local level can raise their county amount plus the amount the state had kicked in before. How is that going to bring us closer to equalization if we pass this bill. Senator Blaylock said the way this bill is written, they would be unable to raise the levy at the county level, only at the school district level.

Senator Stang said at the local district level they could raise the same amount they had received at the county level plus the local level. He said it seemed to him since he had come to the Legislature in 1986 we had spent every day in court. We have tried to move away from pushing these responsibilities onto the local districts, which has caused the unequalization of funding. If we pass this bill aren't we moving farther away and taking the risk those school districts will go to the Supreme Court and tell them to dust off the books, they are going back to court. Senator Blaylock said that could certainly happen, we cannot stop lawsuits. He said even though transportation is mentioned in the Loble lawsuit, which then went to the Supreme Court, that transportation has not been considered a basic part of transportation. If we stop all state funding with the exception of Special Ed, which the Feds say we have to do, he believed we would be in a fairly safe legal position in that we are not mandating transportation and not giving any state money. We would not be disqualifying in so far as the state's effort is concerned.

Senator Stang said in regard to the comment on Special Ed transportation, he assumed it came as a result of the mandate that Special Ed kids should have equal access to the educational process and to ride the bus to school. He asked if this would not be true in reverse, that other children would have the same rights as those of the Special Ed.

Ms. McClure said under the Federal Constitution, the Federal Government has said that education is not a fundamental right and under the federal constitution we do not have to transport. They have given us a federal mandate to deal with Special Ed students.

Senator Waterman said she was concerned with eliminating the permissive county levy and she would feel more comfortable, and believed it would be a more defensible position, if there was a permissive levy allowed at the district level for at least some portion of transportation. She said where we will get into legal programs with this and with the Foundation Program, is that we are going to require a vote of the people before they can raise money at the local level. If we cut back on what we are willing to spend at the state level and shift that burden onto the local districts, whether for the Foundation money or for

transportation, the Loble decision says you run into problems when you are overly dependent on the whims of the local voters to approve or disapprove the budgets.

Chairman Blaylock said he was accused and charged in the papers, that this was blackmail. He could not see how what Senator Yellowtail is doing makes it more so if we accept his amendment and the bill goes through. He said this could not be done immediately because there are all the bus contracts out there and they have to run to the end of this fiscal year. This will not help us out immediately but the thought will be on the mind of the voters whether the amendment is on it or not. He believed Senator Yellowtail's amendment gives people more leeway. He said he agreed that so far as the charge of blackmail was concerned, it would be made anyway, because we are cutting services and changing the way we do business in this session. He said he did not want the people in the state to say he had not told them what would happen, he wanted the people to know what will happen when they vote.

Senator Brown spoke briefly in opposition to the amendment. He said 671 was suspended legally by the petition process prior to the vote. Some may believe the constitution is too permissive in allowing them to suspend an act of the Legislature, or the signature requirement is not high enough, but it was done legally, within the rules as we understand them to be. There will be a vote, 671 will be suspended until the vote is taken, but he saw the state funding of school transportation as a totally different issue. He realized this bill was before us in response 671, but there are a lot of other things that are being done in response to the same problem. He believed a voter could honestly disagree with the two problems, and by passing this amendment we are requiring the voter to accept the transportation priority and also to decide if we keep 671 or not. He said people have shown they are upset and have petitioned, they are entitled to that privilege and he did not think we should garbage up that referendum with a lot of other contingencies of our own. He believed we should respect the petition process and allow the vote to proceed and see what happens. He did not believe it fair or right to pass this amendment.

Senator Yellowtail closed on his amendment by saying he desperately hoped SB 34 will never be necessary, and said he would "defend to the death" the people's right to exercise their right to exercise their privilege under the constitution to second guess this Legislature whenever they feel it is appropriate. The referendum that is before the people is constitutional, is proper and he would not question that. He said he would defend as well, the priority of this contingency and we have not been shown any evidence that this amendment is not a correct legal procedure. This amendment is a means of opening this Legislature's future options as to balancing the state budget in the future in view of declining revenue availability. He said future legislatures might choose to

restore pupil transportation, and that is not foreclosed by this bill nor by this amendment. This amendment would have the effect of restoring pupil transportation automatically, depending on the outcome of referendum 112, saving the Legislature the trouble of even addressing the problem. This amendment connects no new condition or language to the referendum, which was established by the people. He pointed out that all the things the Legislature does this special session in terms of cutting services to the people ought to be the focus of the referendum. He reminded the committee that we cannot have all the services we wish to have without paying for them.

Vote: The motion to adopt Senator Yellowtail's amendment (exhibit 1) failed with 4 members voting yes and 6 voting no by roll call vote.

Greg Groepper, OBI, explained Senator Blaylock's amendment (exhibit 2) which was requested by the OPI to correct technical errors. He apologized for not catching these when the amendments were made, and walked the committee through them. He said these amendments are attempting to address that we will be paying Special Ed transportation as part of the Related Services Block Grant in Special Ed with poor children that have an IEP (Individualized Education Plan). The bill also says we cannot spend general fund money on transportation, so the amendments are making it clear that this Special Ed transportation is a Related Services Block Grant approach and is only for children that have an IEP. That will make sure that every student that gets classified for Special Ed, for example a learning disability, is not entitled to the state providing transportation for them; it has to be a part of the IEP.

Motion: Senator Blaylock moved to amend SB 34 (exhibit 2).

Discussion: Senator Blaylock asked if all this was necessary and Mr. Groepper assured him it was. Some of the amendments are needed because of technical errors, some to limit the Special Ed state paid transportation to IEB students.

Vote: The motion to adopt (exhibit 2) amendments passed unanimously.

Motion: Senator Blaylock moved Senate Bill 34, as amended DO PASS.

Discussion: Senator Yellowtail said it was important to address the matter of disequalization that is implied in this bill. The only rationale that defends this bill in the face of that argument is that this Legislature tries it's best to live up to the requirements of the constitution. This Legislature has tried hard to comply with the courts in terms of equalization. We have shifted priorities and cut other services so we might shift priorities to our school funding situation. Unfortunately we have been put in the position of inadequate resources to respond

to that argument. A minority of the people, under the terms of the constitution, have placed the Special Session where we do not have adequate resources to place priorities on equalization. We may have people sue us, and there are potential lawsuits that may arise from the actions of this Legislation outside of education and school transportation. We are here in this session attempting to respond as responsibly as we can to the people under the terms of the constitution. We have to balance the budget and that is the priority we must meet.

Senator Toews said he voted for 667 and inflicted a lot of pain on the people in his district. We went from 70 to 90 mills just for an equalization concept and this bill does not particularly impact his district because they do not have a lot of guaranteed tax base revenue. He said if he followed the concept of trying to equalize to the best of his ability, this particular bill will disqualify faster than HB 22 because the disparity between schools is greater.

Senator Waterman said we are eliminating the permissive transportation levy at the county level. She would like this bill to include some sort of permissive levy at the district level to allow some continuation of bussing so school districts can have some flexibility in funding to a permissive and voted levy to their existing transportation system. She had a number of trustees talk to her about going to a five mile limit or a sliding fee schedule where the district subsidized for those who could not pay. She liked the idea in this bill that local districts would have a chance to make decisions and could weigh transportation against other issues. When we have to weigh this bill against other things in education in the classroom, we need to say the classroom comes first.

Senator Brenden said he knew transportation costs could be cut, but because of federal, state, local and court mandates, transportation has become very expensive. He believed he could cut transportation costs in his home district by using a little common sense, but the mandates such as liability involved in individual bussing etc., makes it nearly impossible. He said he would oppose the bill.

Senator Brown said he would echo Senator Waterman's statements, up to her conclusion, but because the effect of this falls unequally around the state, there are definitely equalization implications. He said he could not understand how the students in Montana can have an equal educational opportunity if we make it difficult, if not impossible, for some of them to get to school. He said he would have to oppose the bill.

Senator Hertel said consolidation is also a factor here. We are hearing a push to get involved in consolidation. He believed if we get involved in consolidation, bussing would be very important. He wished the message could be gotten to the local districts telling them they must shape up and do something about

this too. His area relies heavily on bussing and a lot of the people feel it will be a tax shift, that they will still have to have some bussing and will see a larger tax locally.

Senator Blaylock mentioned that a person was in the room who has been involved in these court suits and asked if he would give the committee his feelings about this bill.

Pat Melby, representing the Underfunded School Coalition said he would have been at the Monday morning hearing, but had been ill and would try to give some input to the committee. He said there is a question of equalization with this bill. There are several other states that have followed what this bill would do and have eliminated state funding for transportation. He believed there were a number of schemes as to how transportation was handled out in the local districts. California was one of those states, and in a 1992 decision, the Supreme Courts of California and other states have said transportation in those states, under their constitutional provisions, is not part of the free school system. By eliminating state funding for transportation, equalization has not been affected. In this state, he believed his clients would view this as another of many actions this Legislature will take in this Special Session, that is an attack on equalization. Whether we would be successful under Montana's constitution in getting our Supreme Court to say transportation may not be part of the basic system of free quality elementary and secondary schools as in other states, he did not know. He believed they would have to take the position that it is, and that a system that allows some districts to have transportation because the voters will vote it and doesn't allow other districts to have transportation because we know there are voters out there that will not vote one mill for their schools, would be unequal. The reason the Supreme Court affirmed Judge Loble was because of the over reliance on the local property taxes, which is everything the Legislature is doing in this session in regard to school funding by shifting things back on local tax payers in a disproportionate amount. Those can vote it can have it, those that can not vote it will not have it. He believed this is just another block in the whole scheme of what is going to happen to equalization in this legislative session.

Senator Yellowtail asked Mr. Melby if he and his organization was prepared to join the campaign leading up to the referendum 112 in the coming year, to argue that people ought to restore the funding source so the state of Montana might have adequate resources to fund transportation and enjoy equalization.

Mr. Melby said personally he agreed with this bill. If we are going to cut schools, let's cut these kinds of things rather than force our classroom student-teacher ration into some abhorrent level, which will happen with the outcome of this legislative session. He personally agreed, and knew that many, if not all, of the Superintendents and Board of Trustees involved in his organization, agree the same way. He said he also supported the

sales tax, and that is another reason we are here, we don't have any revenues. Whether our organization, through the Underfunded School Coalition would support or oppose the referendum to repeal HB 671, he believed nearly to a person, the representatives of those organizations, will oppose that appeal. He could not speak for them, but knew that through other organizations they belong to, they will be opposing the repeal of HB 671.

Senator Yellowtail thanked Mr. Melby and said he appreciated his statement, but it just highlights the fact that we cannot have it both ways. We cannot have a reduction in our taxes and expect to continue all the services we hold near and dear that is taken for granted in this state. He believed this Legislature must call on every organization which has come in to defend their special interest in the budgeting process to carry that responsibility to involve themselves in that referendum this fall. We cannot have it both ways. There is a chain of events we have seen here. We make choices. In House Bill 28 we made the coherent decision in that legislative session to shift to a state wide property tax as a source for funding educational equalization. He pointed out that some of the Legislators had argued against this, predicting that we would have a property tax uprising. We have it, and it should be no surprise to us. Now we have this situation with this taxpayers revolt, it should not be a surprise to anybody that we are facing cuts like this. We must get over the notion that we can print money in this state to keep the services going.

Senator Blaylock closed by saying he was one of the Legislator's who did support the sales tax. He had tried to keep everything above board by explaining to people in his area that if the petition carried the state would be facing a disaster, and he would characterize what is being faced in this special session as a disaster. He also tried to tell people that if that much money was taken out, there were only four places we could get it because that is where the state money is--the university, K-12, Corrections and Social Services. He pointed out there are degrees of importance on what we do in our public schools in Montana. He did not like this bill and wished he had not felt compelled to have put it in, but would take this over what we would have to do with our classrooms. He pointed out that if this bill is killed and if 671 is not restored, we will be back in January of next year and something like this will have to be done because we will not have the money.

Vote: The motion that Senate Bill 34 do pass as amended passed with 6 voting for the bill, 4 against, roll call vote.

ADJOURNMENT

Adjournment: 10:06 A.M.


SENATOR BLAYLOCK, Chair


SYLVIA KINSEY, Secretary

CB/skk:\macro sen\

ROLL CALL

SENATE COMMITTEE EDUCATION AND CULTURAL RESOURCES DATE

12-8-93

[illegible]

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
December 8, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 34 (first reading copy -- white), respectfully report that Senate Bill No. 34 be amended as follows and as so amended do pass.

Signed: Chet Blaylock
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, line 6.

Strike: "SPECIAL EDUCATION PUPILS"

Insert: "CHILDREN WITH DISABILITIES"

2. Title, line 15.

Following: "20-5-102,"

Insert: "20-5-320,"

3. Page 16, line 11.

Insert: "Section 8. Section 20-5-320, MCA, is amended to read:

"20-5-320. Attendance with discretionary approval. (1) A child may be enrolled in and attend a school in a Montana school district that is outside of the child's district of residence or a public school in a district of another state or province that is adjacent to the county of the child's residence, subject to discretionary approval by the trustees of the resident district and the district of choice. If the trustees grant discretionary approval of the child's attendance in a school of the district, the parent or guardian may be charged tuition and may be charged for transportation.

(2) (a) Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes to attend. The application must be made on an out-of-district attendance agreement form supplied by the district and developed by the superintendent of public instruction.

(b) The attendance agreement must set forth the financial obligations, if any, for tuition and for costs incurred for transporting the child ~~under Title 20, chapter 10.~~

(c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver must be applied equally to all students.

(3) An out-of-district attendance agreement approved under this section requires that the parent or guardian initiate the request for an out-of-district attendance agreement and that the

trustees of both the district of residence and the district of choice approve the agreement.

(4) If the trustees of the district of choice waive tuition, approval of the resident district trustees is not required.

(5) The trustees of a school district may approve or disapprove the out-of-district attendance agreement consistent with this part and the policy adopted by the local board of trustees for out-of-district attendance agreements.

(6) The approval of an out-of-district attendance agreement by the applicable approval agents or as the result of an appeal must authorize the child named in the agreement to enroll in and attend the school named in the agreement for the designated school year.

(7) The trustees of the district where the child wishes to attend have the discretion to approve any attendance agreement.

(8) This section does not preclude the trustees of a district from approving an attendance agreement for educational program offerings not provided by the resident district, such as the kindergarten or grades 7 and 8 programs, if the trustees of both districts agree to the terms and conditions for attendance and any tuition and transportation requirement. For purposes of this subsection, the trustees of the resident district shall initiate the out-of-district agreement.

(9) (a) A provision of this title may not be construed to deny a parent the right to send a child, at personal expense, to any school of a district other than the resident district when the trustees of the district of choice have approved an out-of-district attendance agreement and the parent has agreed to pay the tuition as prescribed by 20-5-323. However, under this subsection (9), the tuition rate must be reduced by the amount the parent or guardian of the child paid in district and county property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school.

(b) For the purposes of this section, "parent or guardian" includes an individual shareholder of a domestic corporation as defined in 35-1-113 whose shares are 95% held by related family members to the sixth degree of consanguinity or by marriage to the sixth degree of affinity.

(c) The tax amount to be credited to reduce any tuition charge to a parent or guardian under subsection (9)(a) is determined in the following manner:

(i) determine the percentage of the total shares of the corporation held by the shareholder parent or parents or guardian;

(ii) determine the portion of property taxes paid in the preceding school fiscal year by the corporation, parent, or

guardian for the benefit and support of the district in which the child will attend school.

(d) The percentage of total shares as determined in subsection (9)(c)(i) is the percentage of taxes paid as determined in subsection (9)(c)(ii) that is to be credited to reduce the tuition charge.

(10) As used in 20-5-320 through 20-5-324, the term "guardian" means the guardian of a minor as provided in Title 72, chapter 5, part 2."

Renumber: subsequent sections

4. Page 18, line 5.

Following: "and"

Strike: "any discretionary provision of"

5. Page 38, line 1.

Strike: "Special education child"

Insert: "Child with disability --"

6. Page 38, line 3.

Following: "a"

Strike: "special education"

Following: "child"

Insert: "with a disability"

7. Page 38, line 5.

Following: "district"

Insert: "when transportation is identified as a related service
on the student's individual education plan and"

8. Page 38, lines 11 and 14.

Following: "approved"

Strike: "tuition"

Insert: "out-of-district attendance"

9. Page 49, line 25.

Following: "(2)"

Strike: "The"

Insert: "Except for programs allowed under 20-7-441, the"

Following: "district"

Insert: ":"

(a) "

10. Page 50, lines 2 and 3.

Following: "program"

Strike: "." on line 2 through "budgeted" on line 3

Insert: "; and

(b) shall budget"

Following: "for"

Insert: "all other district transportation programs"

11. Page 54, line 18.

Following: "(1)"

Strike: "The"

Insert: "Except as provided under 20-7-441, the"

12. Page 63, lines 3 through 7.

Following: "by" on line 3

Strike: ":" on line 3 through "(b)" on line 7

13. Page 63, lines 9 and 10.

Following: "the" on line 9

Insert: "transportation fund budget"

Following: "amount" on line 9

Strike: remainder of line 9 through "(3)(a)" on line 10

-END-

ROLL CALL VOTE (1)

SENATE COMMITTEE EDUCATION AND CULTURAL RESOURCES S BILL NO.
SB 34

DATE 12-8-93 TIME 9:36 AM (A.M.) P.M.

[illegible]

SECRETARY

CHAIR

MOTION: To Amend HB 34

SEN. YELLOWTAIL
MOVED TO AMEND
SB 34.

ROLL CALL VOTE

SENATE COMMITTEE EDUCATION AND CULTURAL RESOURCES BILL NO.

DATE 12-8-93 TIME 10:03 A.M. P.M.

[illegible]

SECRETARY

CHAIR

MOTION: 169 SEN. BLAYLOCK MOVED SB34
AS AMENDED, DO PASS.

Amendments to Senate Bill No. 34
First Reading Copy

SENATE *sub 1*
EDUCATION
EXHIBIT NO. 1
DATE 12-8-93
BILL NO. SB 34

Requested by Senator Yellowtail
For the Committee on Senate Education

Prepared by Eddye McClure
December 7, 1993

1. Title, line 14.

Following: "ACCOUNT;"

Insert: "LIMITING SCHOOL DISTRICT TRANSPORTATION CONTRACTS PRIOR
TO A VOTE ON INITIATED REFERENDUM NO. 112;"

2. Title, line 23.

Following: "PROVIDING"

Strike: "AN IMMEDIATE"

Insert: "A DELAYED"

3. Page 64, line 6.

Following: line 5

Insert: "NEW SECTION. Section 32. Limitation on school district
transportation contracts. A transportation contract entered
into by a school district prior to a vote by the electorate
on Initiated Referendum No. 112:

(1) must provide for the effects of [this act]; and

(2) may not extend beyond July 1, 1995."

NEW SECTION. Section 33. Contingent voidness. If
Initiated Referendum No. 112 is passed and approved by the
electorate, then [this act] is void."

Renumber: subsequent section

4. Page 64, lines 8 and 9.

Following: "effective" on line 8

Strike: remainder of line 8 through "approval"

Insert: "July 1, 1995,"

5. Page 64, line 11.

Strike: "1994"

Insert: "1995"

SENATE EDUCATION

EXHIBIT NO. 2

DATE 12/8/93

BILL NO. SB 34

Amendments to Senate Bill No. 34
First Reading Copy

Requested by Senator Blaylock
For the Committee on Senate Education

Prepared by Eddy McClure
December 6, 1993

1. Title, line 6.

Strike: "SPECIAL EDUCATION PUPILS".

Insert: "CHILDREN WITH DISABILITIES"

2. Title, line 15.

Following: "20-5-102,"

Insert: "20-5-320,"

3. Page 16, line 11.

Insert: "Section 8. Section 20-5-320, MCA, is amended to read:

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(2) (a) Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes to attend. The application must be made on an out-of-district attendance agreement form supplied by the district and developed by the superintendent of public instruction.

(b) The attendance agreement must set forth the financial obligations, if any, for tuition and for costs incurred for transporting the child ~~under Title 20, chapter 10.~~

(c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver must be applied equally to all students.

(3) An out-of-district attendance agreement approved under this section requires that the parent or guardian initiate the request for an out-of-district attendance agreement and that the trustees of both the district of residence and the district of choice approve the agreement.

(4) If the trustees of the district of choice waive tuition, approval of the resident district trustees is not required.

(5) The trustees of a school district may approve or disapprove the out-of-district attendance agreement consistent with this part and the policy adopted by the local board of trustees for out-of-district attendance agreements.

(6) The approval of an out-of-district attendance agreement by the applicable approval agents or as the result of an appeal must authorize the child named in the agreement to enroll in and attend the school named in the agreement for the designated school year.

(7) The trustees of the district where the child wishes to attend have the discretion to approve any attendance agreement.

(8) This section does not preclude the trustees of a district from approving an attendance agreement for educational program offerings not provided by the resident district, such as the kindergarten or grades 7 and 8 programs, if the trustees of both districts agree to the terms and conditions for attendance and any tuition and transportation requirement. For purposes of this subsection, the trustees of the resident district shall initiate the out-of-district agreement.

(9) (a) A provision of this title may not be construed to deny a parent the right to send a child, at personal expense, to any school of a district other than the resident district when the trustees of the district of choice have approved an out-of-district attendance agreement and the parent has agreed to pay the tuition as prescribed by 20-5-323. However, under this subsection (9), the tuition rate must be reduced by the amount the parent or guardian of the child paid in district and county property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school.

(b) For the purposes of this section, "parent or guardian" includes an individual shareholder of a domestic corporation as defined in 35-1-113 whose shares are 95% held by related family members to the sixth degree of consanguinity or by marriage to the sixth degree of affinity.

(c) The tax amount to be credited to reduce any tuition charge to a parent or guardian under subsection (9)(a) is determined in the following manner:

(i) determine the percentage of the total shares of the corporation held by the shareholder parent or parents or guardian;

(ii) determine the portion of property taxes paid in the preceding school fiscal year by the corporation, parent, or guardian for the benefit and support of the district in which the child will attend school.

(d) The percentage of total shares as determined in subsection (9)(c)(i) is the percentage of taxes paid as determined in subsection (9)(c)(ii) that is to be credited to reduce the tuition charge.

(10) As used in 20-5-320 through 20-5-324, the term "guardian" means the guardian of a minor as provided in Title 72, chapter 5, part 2."

Renumber: subsequent sections

{ Internal References to 20-5-320:

x20-3-210	x20-5-314	x20-5-320	x20-5-323
x20-5-324	x20-6-702	x20-10-144	

Following: "and"

Strike: "any discretionary provision of"

5. Page 38, line 1.

Strike: "Special education child"

Insert: "Child with disability --"

6. Page 38, line 3.

Following: "a"

Strike: "special education"

Following: "child"

Insert: "with a disability"

7. Page 38, line 5.

Following: "district"

Insert: "when transportation is identified as a related service
on the student's individual education plan and"

8. Page 38, lines 11 and 14.

Following: "approved"

Strike: "tuition"

Insert: "out-of-district attendance"

9. Page 49, line 25.

Following: "(2)"

Strike: "The"

Insert: "Except for programs allowed under 20-7-441, the"

Following: "district"

Insert: ":

(a)"

10. Page 50, lines 2 and 3.

Following: "program"

Strike: "." on line 2 through "budgeted" on line 3

Insert: "; and

(b) shall budget"

Following: "for"

Insert: "all other district transportation programs"

11. Page 54, line 18.

Following: "(1)"

Strike: "The"

Insert: "Except as provided under 20-7-441, the"

12. Page 63, lines 3 through 7.

Following: "by" on line 3

Strike: ":" on line 3 through "(b)" on line 7

13. Page 63, lines 9 and 10.

Following: "the" on line 9

Insert: "transportation fund budget"

Following: "amount" on line 9

Strike: remainder of line 9 through "(3)(a)" on line 10