

SENATE BILL NO. 289

INTRODUCED BY E. SMITH, H. HAMMOND, GALT, KOLSTAD, ZABROCKI,
ERNST, CAMPBELL, THOMAS, SWIFT, SCHULTZ, SALES, ASAY, MCCALLUM,
HARDING, AKLESTAD, KEATING, TVEIT, GAGE, CRIPPEN,
STEPHENS, PINSONEAULT, NATHE, GLASER, PATTERSON, IVERSON, COMPTON,
JENKINS, SWITZER, HAND, GILBERT, KEYSER, THOFT, WINSLOW,
MERCER, SIMON, DEVLIN, O'HARA

IN THE SENATE

January 31, 1985	Introduced and referred to Committee on Education and Cultural Resources.
February 21, 1985	Committee recommend bill do pass as amended. Report adopted.
February 22, 1985	Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass.
February 25, 1985	Considered correctly engrossed. Third reading, passed. Ayes, 42; Noes, 6. Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Education and Cultural Resources.
March 21, 1985	Committee recommend bill be concurrred in as amended. Report adopted.
March 23, 1985	Second reading, concurrred in.
March 26, 1985	Third reading, concurrred in. Returned to Senate with amendments.

IN THE SENATE

March 26, 1985	Received from House.
April 2, 1985	Second reading, amendments not concurred in. Ayes, 50; Noes, 0.
April 4, 1985	On motion, Conference Committee requested and appointed.
April 11, 1985	Conference Committee dissolved. On motion, Free Conference Committee requested and appointed.
April 12, 1985	Free Conference Committee reported. Free Conference Committee report adopted by House.
April 13, 1985	Second reading, Free Conference Committee report adopted.
April 15, 1985	Third reading, Free Conference Committee report adopted. Ayes, 48; Noes, 1. Sent to enrolling.
April 17, 1985	Correctly enrolled. Signed by President. Signed by Speaker.
April 18, 1985	Delivered to Governor.
April 23, 1985	Returned from Governor with recommended amendments.
April 24, 1985	Second reading, Governor's amendments concurred in.

April 25, 1985

Third reading, Governor's
amendments concurred in.

Transmitted to House.

IN THE HOUSE

April 25, 1985

Received from Senate.

Second reading, Governor's
amendments concurred in.

Third reading, Governor's
amendments concurred in.

Returned to Senate.

IN THE SENATE

April 25, 1985

Received from House.

Sent to enrolling.

Reported correctly enrolled.

Asy 2/13
SALE
Schultz
Thomas
Castel
Emmett
Schuck
Q

Senate BILL NO. *289*
INTRODUCED BY *E. Smith* *Shelton* *Walt Kern*
Maballum *Hickox* *W. ARLESTAD* *Keating* *Triet* *Big*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT ANY ADMINISTRATIVE RULE ADOPTED BY A STATE AGENCY THAT IMPOSES NEW DUTIES ON A SCHOOL DISTRICT IS NOT EFFECTIVE UNTIL THE LEGISLATURE PROVIDES A SPECIFIC MEANS OF FINANCING THE NEW DUTIES; AMENDING SECTION 1-2-113, MCA."
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-2-113, MCA, is amended to read:
"1-2-113. Statutes and rules imposing new duties on a school district to provide means of financing. (1) Any law enacted by the legislature after July 1, 1981, or any administrative rule adopted by a state agency after [the effective date of this act], except any law or rule implementing a federal law or a court decision, that requires a school district to perform an activity or provide a service or facility and that will require the direct expenditure of additional funds shall provide or implement a law that provides a specific means to finance the activity, service, or facility other than the existing property tax mill levy. Any law or rule that fails to provide a specific means to finance such a service or facility is not effective until a specific means of financing meeting the requirements

of subsection (2) is provided by the legislature.

(2) Financing must be by means of a remission of money by the state for the purpose of funding the activity, service, or facility. Financing must bear a reasonable relationship to the actual cost of performing the activity or providing the service or facility.

(3) No legislation passed and approved after October 1, 1981, supersedes or modifies any provision of this section that relates to enactment of a law by the legislature, except to the extent that the legislation expressly does so. No legislation passed and approved after [the effective date of this act] supersedes or modifies any provision of this section that relates to adoption of an administrative rule by a state agency, except to the extent that the legislature expressly does so.

(4) This section does not apply to any law or rule under which the required expenditure of additional funds by the board of trustees is an insubstantial amount that can be readily absorbed into the budget of an existing program."

-End-



-2- INTRODUCED BILL
SB 289

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

SENATE BILL NO. 289

INTRODUCED BY E. SMITH, H. HAMMOND, GALT, KOLSTAD,
ZABROCKI, ERNST, CAMPBELL, THOMAS, SWIFT, SCHULTZ,
SALES, ASAY, MCCALLUM, HARDING, AKLESTAD,
KEATING, TVEIT, GAGE, CRIPPEN, STEPHENS,
PINSONEAULT, NATHE, GLASER, PATTERSON, IVERSON,
COMPTON, JENKINS, SWITZER, HAND, GILBERT,
KEYSER, THOFT, WINSLOW, MERCER, SIMON, DEVLIN, O'HARA

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT ANY
ADMINISTRATIVE RULE ADOPTED BY A-STATE-AGENCY THE BOARD OF
PUBLIC EDUCATION THAT IMPOSES ~~NEW--DUTIES~~ A SUBSTANTIAL
FINANCIAL IMPACT ON A SCHOOL DISTRICT IS NOT EFFECTIVE UNTIL
THE LEGISLATURE PROVIDES A SPECIFIC MEANS OF FINANCING THE
~~NEW--DUTIES;--AMENDING-SECTION-1-2-113;--MCA~~ RULE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Rules with substantial financial impact --
fiscal note -- effect without funding. (1) When adopting
rules, policies, and standards under 20-2-121(6), (7), (9),
and (11), the board of public education shall concurrently
adopt a fiscal note to determine the financial impact of the
rule, policy, or standard on school districts.

(2) The superintendent of public instruction shall
prepare a suggested fiscal note for submission to the board
of education. The board may also accept other testimony and
exhibits on the financial impact to school districts before
adopting a final fiscal note.

(3) (a) If the financial impact of the rule, policy,
or standard is found by the board to be substantial, the
board shall request the next legislature to fund
implementation of the rule, policy, or standard through the
foundation program. A substantial financial impact is an
amount that cannot be readily absorbed in the budget of an
existing school district program.

(b) A rule, policy, or standard found to have a
substantial financial impact after formal adoption by the
board is advisory to school districts until the beginning of
the fiscal year immediately following the next legislative
session.

(c) If the legislature refuses to fund requests made
by the board under subsection (3)(a), the board shall
declare that the rule, policy, or standard is advisory only
as applied to school districts until such time as the board
determines that appropriate funding is available to fund the
rule, policy, or standard.

(4) A rule, policy, or standard not found to have a
substantial financial impact on school districts becomes

SECOND READING

SB 289

SB 0289/02

1 effective as provided in Title 2, chapter 4.

-End-

SENATE BILL NO. 289

INTRODUCED BY E. SMITH, H. HAMMOND, GALT, KOLSTAD, ZABROCKI, ERNST, CAMPBELL, THOMAS, SWIFT, SCHULTZ, SALES, ASAY, MCCALLUM, HARDING, AKLESTAD, KEATING, TVEIT, GAGE, CRIPPEN, STEPHENS, PINSONEAULT, NATHE, GLASER, PATTERSON, IVERSON, COMPTON, JENKINS, SWITZER, HAND, GILBERT, KEYSER, THOFT, WINSLOW, MERCER, SIMON, DEVLIN, O'HARA

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT ANY ADMINISTRATIVE RULE ADOPTED BY A-STATE-AGENCY THE BOARD OF PUBLIC EDUCATION THAT IMPOSES NEW--BUTIES A SUBSTANTIAL FINANCIAL IMPACT ON A SCHOOL DISTRICT IS NOT EFFECTIVE UNTIL THE LEGISLATURE PROVIDES A SPECIFIC MEANS OF FINANCING THE NEW--BUTIES--AMENDING-SECTION-1-2-113--MEA RULE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Rules with substantial financial impact -- fiscal note -- effect without funding. (1) When adopting rules, policies, and standards under 20-2-121(6), (7), (9), and (11), the board of public education shall concurrently adopt a fiscal note to determine the financial impact of the rule, policy, or standard on school districts.

(2) The superintendent of public instruction shall prepare a suggested fiscal note for submission to the board of education. The board may also accept other testimony and exhibits on the financial impact to school districts before adopting a final fiscal note.

(3) (a) If the financial impact of the rule, policy, or standard is found by the board to be substantial, the board shall request the next legislature to fund implementation of the rule, policy, or standard through the foundation program. A substantial financial impact is an amount that cannot be readily absorbed in the budget of an existing school district program.

(b) A rule, policy, or standard found to have a substantial financial impact after formal adoption by the board is advisory to school districts until the beginning of the fiscal year immediately following the next legislative session.

(c) If the legislature refuses to fund requests made by the board under subsection (3)(a), the board shall declare that the rule, policy, or standard is advisory only as applied to school districts until such time as the board determines that appropriate funding is available to fund the rule, policy, or standard.

(4) A rule, policy, or standard not found to have a substantial financial impact on school districts becomes

THIRD READING

SB 289



SB 0289/02

1 effective as provided in Title 2, chapter 4.

-End-

STANDING COMMITTEE REPORT

HOUSE

MARCH 21

19 85

MR. SPEAKER

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE Bill No. 289

THIRD reading copy (BLUE)
color

PROVIDING THAT RULES IMPOSING DUTY ON SCHOOLS NOT EFFECTIVE
WITHOUT FUNDING

Respectfully report as follows: That SENATE Bill No. 289

BE AMENDED AS FOLLOWS:

1. Page 2, line 18.
Following: "If the"
Insert: "next"
2. Page 2, lines 21 through 23.
Following: "districts"
Strike: remainder of line 21 through "standard"
on line 23

AS
AND, AS AMENDED

BE CONCURRED IN

~~RECEIVED~~

S
3/21

Dan Harrington
.....
REP. DAN HARRINGTON

Chairman.

SENATE BILL NO. 289

INTRODUCED BY E. SMITH, H. HAMMOND, GALT, KOLSTAD, ZABROCKI, ERNST, CAMPBELL, THOMAS, SWIFT, SCHULTZ, SALES, ASAY, MCCALLUM, HARDING, AKLESTAD, KEATING, TVEIT, GAGE, CRIPPEN, STEPHENS, PINSONEAULT, NATHE, GLASER, PATTERSON, IVERSON, COMPTON, JENKINS, SWITZER, HAND, GILBERT, KEYSER, THOFT, WINSLOW, MERCER, SIMON, DEVLIN, O'HARA

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT ANY ADMINISTRATIVE RULE ADOPTED BY A-STATE-AGENCY THE BOARD OF PUBLIC EDUCATION THAT IMPOSES ~~NEW--BUT~~ A SUBSTANTIAL FINANCIAL IMPACT ON A SCHOOL DISTRICT IS NOT EFFECTIVE UNTIL THE LEGISLATURE PROVIDES A SPECIFIC MEANS OF FINANCING THE ~~NEW--BUT~~ AMENDING-SECTION-1-2-113,--MEA RULE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Rules with substantial financial impact -- fiscal note -- effect without funding. (1) When adopting rules, policies, and standards under 20-2-121(6), (7), (9), and (11), the board of public education shall concurrently adopt a fiscal note to determine the financial impact of the rule, policy, or standard on school districts.

(2) The superintendent of public instruction shall prepare a suggested fiscal note for submission to the board of education. The board may also accept other testimony and exhibits on the financial impact to school districts before adopting a final fiscal note.

(3) (a) If the financial impact of the rule, policy, or standard is found by the board to be substantial, the board shall request the next legislature to fund implementation of the rule, policy, or standard through the foundation program. A substantial financial impact is an amount that cannot be readily absorbed in the budget of an existing school district program.

(b) A rule, policy, or standard found to have a substantial financial impact after formal adoption by the board is advisory to school districts until the beginning of the fiscal year immediately following the next legislative session.

(c) If the NEXT legislature refuses to fund requests made by the board under subsection (3)(a), the board shall declare that the rule, policy, or standard is advisory only as applied to school districts ~~until-such-time-as-the--board determines-that-appropriate-funding-is-available-to-fund-the rule,-policy,-or-standard.~~

(4) A rule, policy, or standard not found to have a substantial financial impact on school districts becomes

REFERENCE BILL

SB 289



SB 0289/03

1 effective as provided in Title 2, chapter 4.

-End-

1 SENATE BILL NO. 289

2 INTRODUCED BY E. SMITH, H. HAMMOND, GALT, KOLSTAD,
 3 ZABROCKI, ERNST, CAMPBELL, THOMAS, SWIFT, SCHULTZ,
 4 SALES, ASAY, MCCALLUM, HARDING, AKLESTAD,
 5 KEATING, TVEIT, GAGE, CRIPPEN, STEPHENS,
 6 PINSONEAULT, NATHE, GLASER, PATTERSON, IVERSON,
 7 COMPTON, JENKINS, SWITZER, HAND, GILBERT,
 8 KEYSER, THOFT, WINSLOW, MERCER, SIMON, DEVLIN, O'HARA

9
 10 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT ANY
 11 ADMINISTRATIVE RULE ADOPTED BY ~~A STATE AGENCY~~ THE BOARD OF
 12 PUBLIC EDUCATION THAT IMPOSES ~~NEW--DUTIES~~ A SUBSTANTIAL
 13 FINANCIAL IMPACT ON A SCHOOL DISTRICT IS NOT EFFECTIVE UNTIL
 14 THE LEGISLATURE PROVIDES A ~~SPECIFIC~~ MEANS OF FINANCING THE
 15 ~~NEW--DUTIES--AMENDING-SECTION-1-2-113--MEA~~ RULE."

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 (Refer to Introduced Bill)

19 Strike everything after the enacting clause and insert:

20 Section 1. Rules with substantial financial impact --
 21 fiscal note -- effect without funding. (1) When adopting
 22 rules, policies, and standards under 20-2-121(6), (7), (9),
 23 and (11), the board of public education shall concurrently
 24 adopt a fiscal note to determine the financial impact of the
 25 rule, policy, or standard on school districts.

1 (2) The superintendent of public instruction shall
 2 prepare a suggested fiscal note for submission to the board
 3 of education. The board may also accept other testimony and
 4 exhibits on the financial impact to school districts before
 5 adopting a final fiscal note.

6 (3) (a) If the financial impact of the rule, policy,
 7 or standard is found by the board to be substantial, the
 8 board shall request the next legislature to fund
 9 implementation of the rule, policy, or standard through the
 10 foundation program. A substantial financial impact is an
 11 amount that cannot be readily absorbed in the budget of an
 12 existing school district program.

13 (b) A rule, policy, or standard found to have a
 14 substantial financial impact after formal adoption by the
 15 board is advisory to school districts until the beginning of
 16 the fiscal year immediately following the next legislative
 17 session.

18 (c) If the NEXT legislature refuses-to-fund DETERMINES
 19 THAT FUNDING IS NOT AVAILABLE TO PAY FOR requests made by
 20 the board under subsection (3)(a), the board shall declare
 21 that the rule, policy, or standard is advisory only as
 22 applied to school districts ~~until-such-time-as-the-board~~
 23 ~~determines-that-appropriate-funding-is-available-to-fund-the~~
 24 ~~rule--policy--or--standard.~~ NO RULE, POLICY, OR STANDARD
 25 WITH A SUBSTANTIAL FINANCIAL IMPACT SHALL BE IMPLEMENTED

1 WITHOUT LEGISLATIVE FUNDING.

2 (4) A rule, policy, or standard not found to have a
3 substantial financial impact on school districts becomes
4 effective as provided in Title 2, chapter 4.

-End-

GOVERNOR'S PROPOSED AMENDMENTS TO
SENATE BILL NO. 289
REFERENCE BILL: INCLUDES FREE CONFERENCE
COMMITTEE REPORT DATED 4/11/85
April 23, 1985

1. Title, line 11.
Following: line 10
Insert: "PROPOSED"
Following: "RULE"
Strike: "ADOPTED"
Insert: "DEVELOPED"

2. Page 1, line 21.
Following: "When"
Strike: "adopting"
Insert: "developing"

3. Page 1, line 24.
Following: "line 23"
Strike: "adopt"
Insert: "develop"

4. Page 2, line 3.
Following: line 2
Strike: "of education"

5. Page 2, line 5.
Following: line 4
Strike: "adopting"
Insert: "completing"

6. Page 2, line 6.
Following: "(3)"
Strike: "(a)"
Following: "of the"
Insert: "proposed"

7. Page 2, line 8.
Following: "board"
Insert: "may not proceed to rulemaking and"

8. Page 2, line 9.
Following: "of the"
Insert: "proposed"

9. Page 2, line 13 through page 3, line 1.
Strike: Subsections (b) and (c) in their entirety

10. Page 3, line 2.
Following: "A"
Insert: "proposed"
Following: "found"
Insert: "by the board"

11. Page 3, lines 3 and 4.
Following: "districts" on line 3
Strike: "becomes" on line 3 through "4" on line 4
Insert: "or funded by the legislature may proceed to rulemaking"

-END-

1 SENATE BILL NO. 289

2 INTRODUCED BY E. SMITH, H. HAMMOND, GALT, KOLSTAD,

3 ZABROCKI, ERNST, CAMPBELL, THOMAS, SWIFT, SCHULTZ,

4 SALES, ASAY, MCCALLUM, HARDING, AKLESTAD,

5 KEATING, TVEIT, GAGE, CRIPPEN, STEPHENS,

6 PINSONEAULT, NATHE, GLASER, PATTERSON, IVERSON,

7 COMPTON, JENKINS, SWITZER, HAND, GILBERT,

8 KEYSER, THOFT, WINSLOW, MERCER, SIMON, DEVLIN, O'HARA

9
10 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT ANY
11 PROPOSED ADMINISTRATIVE RULE ADOPTED DEVELOPED BY A-STATE
12 AGENCY THE BOARD OF PUBLIC EDUCATION THAT IMPOSES NEW-DUTIES
13 A SUBSTANTIAL FINANCIAL IMPACT ON A SCHOOL DISTRICT IS NOT
14 EFFECTIVE UNTIL THE LEGISLATURE PROVIDES A SPECIFIC MEANS OF
15 FINANCING THE NEW-DUTIES,--AMENDING--SECTION-1-2-113,--MCA
16 RULE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 (Refer to Introduced Bill)

20 Strike everything after the enacting clause and insert:

21 Section 1. Rules with substantial financial impact --
22 fiscal note -- effect without funding. (1) When adopting
23 DEVELOPING rules, policies, and standards under 20-2-121(6),
24 (7), (9), and (11), the board of public education shall
25 concurrently adopt DEVELOP a fiscal note to determine the

1 financial impact of the rule, policy, or standard on school
2 districts.

3 (2) The superintendent of public instruction shall
4 prepare a suggested fiscal note for submission to the board
5 of--education. The board may also accept other testimony and
6 exhibits on the financial impact to school districts before
7 adopting COMPLETING a final fiscal note.

8 (3) (a) If the financial impact of the PROPOSED rule,
9 policy, or standard is found by the board to be substantial,
10 the board MAY NOT PROCEED TO RULEMAKING AND shall request
11 the next legislature to fund implementation of the PROPOSED
12 rule, policy, or standard through the foundation program. A
13 substantial financial impact is an amount that cannot be
14 readily absorbed in the budget of an existing school
15 district program.

16 (b) ~~A rule, policy, or standard found to have a~~
17 ~~substantial financial impact after formal adoption by the~~
18 ~~board is advisory to school districts until the beginning of~~
19 ~~the fiscal year immediately following the next legislative~~
20 ~~session.~~

21 (c) ~~If the NEXT legislature refuses to fund DETERMINES~~
22 ~~THAT FUNDING IS NOT AVAILABLE TO PAY FOR~~ requests--made--by
23 the--board--under--subsection--(3)(a)--the--board--shall--declare
24 that--the--rule,--policy,--or--standard--is--advisory--only--as
25 applied--to--school--districts--until--such--time--as--the--board

1 ~~determines that appropriate funding is available to fund the~~
2 ~~rule, policy, or standard. NO RULE, POLICY, OR STANDARD WITH~~
3 ~~A SUBSTANTIAL FINANCIAL IMPACT SHALL BE IMPLEMENTED WITHOUT~~
4 ~~LEGISLATIVE FUNDING.~~

5 (4) A PROPOSED rule, policy, or standard not found BY
6 THE BOARD to have a substantial financial impact on school
7 districts ~~becomes effective as provided in Title 27, chapter~~
8 ~~4~~ OR FUNDED BY THE LEGISLATURE MAY PROCEED TO RULEMAKING.

-End-