

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



ANGELA MCLEAN
LT. GOVERNOR

April 30, 2015

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill 322 (HB 322), "AN ACT ESTABLISHING THE MONTANA SPECIAL NEEDS EDUCATION SAVINGS ACCOUNT PROGRAM; PROVIDING DEFINITIONS; ESTABLISHING REQUIREMENTS FOR ELIGIBILITY AND ALLOWABLE EXPENSES; PROVIDING RESPONSIBILITIES FOR PARENTS AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION; CLARIFYING THE AUTONOMY OF PARTICIPATING PRIVATE SCHOOLS; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION AND A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

HB 322 would establish an "educational savings account" that would be funded with public taxpayer dollars to allow parents or legal guardians of a broadly-defined category of "special needs" students to use those public dollars to pay for private educational programs, services and materials. The funds for the savings account would be diverted from the state funding provided to the school district in which the student resides. HB 322 is problematic on a number of policy, practical, and potentially constitutional grounds.

For example, the bill's definition of "qualified student" is very broad, and would make many students who have transient or minor conditions qualified to use the public funds for private education. It also includes siblings of any student who meets the broad definition of "qualified student." Once a student meets any of the criteria identified by the statute, they and any siblings remain "qualified students" even if their qualifying condition or situation no longer exists.

The bill's provisions regarding "qualified schools" are also problematic. Pursuant to the express language of the bill, the private schools eligible to receive the public funds are autonomous, and may not be subject to any regulation or control by the Montana Superintendent of Public Instruction or any other state agency. The accountability provisions in the bill merely address financial accountability; they do not include any provisions that would assure the efficacy, integrity or validity of the services provided by the private provider.

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I am also concerned about the potential constitutional implications if the funds diverted from public schools are used to pay for sectarian private education. That consideration, however, is not the primary basis for my veto. Rather, HB 322 should not become law because it is simply not good policy.

Our public resources should be used to support our outstanding public schools, which are open to all students, with any kind of need. I respect and will protect the right of parents to choose to educate their children in non-public schools, and note that more than 10,000 Montana students are educated in private schools or are homeschooled. I will not, however, support legislation that subsidizes that choice with public resources.

For these reasons, I veto HB 322.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Bullock", written over a horizontal line.

STEVE BULLOCK
Governor

cc: Legislative Services Division
Austin Knudsen, Speaker of the House
Debby Barrett, President of the Senate