

**Schools, Courses of Study In. Board of Trustees, Authority Of. Industrial and Domestic Courses, Authority to Maintain.**

Under the law of this state a board of trustees has the authority to add the industrial and domestic courses to the usual courses of study.

June 13, 1912.

Hon. T. P. Stewart,  
County Attorney,

Deer Lodge County, Anaconda, Mont.

Dear Sir:

I am in receipt of a letter signed by Mr. John L. Chrystal, as president of the school board, and by Mr. W. K. Dwyer, superintendent, making enquiry as to the authority of the school board to maintain industrial and domestic science departments as part of the school course of that district. It is a rule of this department not to render opinions to anyone except to the state and county officials whom it is my duty to advise. I do not know that this question has ever been presented to you, but it is evidently a question in which the school board is much interested, and will undoubtedly be presented to you for your consideration, and I take the liberty to here submit to you the result of my research in investigating this question.

Sec. 912 of the Revised Codes enumerates certain branches which must be taught, but does not prohibit the addition of other branches, and by the provisions of Sec. 884, "a board of trustees" has authority to establish a high school, employ teachers, and "grade the school into departments and classes." Grading a school necessarily requires a course of study and determination as to what branches shall be taught.

Subdivision 15 of Sec. 875 of the Revised Codes, relating to the powers of school boards, provides:

"To determine what branches, if any, in addition to those required by law shall be taught in any school in the district, subject to the approval of the county superintendent."

There is not any rule or regulation of the state board of education which abbreviates or curtails this general authority conferred on school boards by the general law.

Chap. 131, Laws of 1911, is merely cumulative in so far as conferring authority to establish and maintain these courses in the common schools is concerned, for that authority already existed under the general law of the state relating to common schools. Said chapter only states in a concrete form the power and authority conferred by general law, although it does require the superintendent of public instruction to formulate or approve the courses of study, and makes their maintenance obligatory in certain district schools. Sec. 4 of this Act was vetoed by the Governor and the rest of the Act approved. If Sec. 4 is an appropriation within the meaning of Sec. 13, Art. VII, of the State Constitution, than the provisions of Sec. 12 of the same Article do not apply, and the governor was acting within his prerogative in vetoing "any item or items." And if said Sec. 4 of said Chap. 131 is not an appropriation bill within the meaning of the Constitution, and has not in law been vetoed, it is inoperative, for

"no money shall be paid out of the treasury except upon appropriations made by law, etc."

Sec. 34, Art. V, of the State Constitution.  
and no such appropriation was ever made.

From these considerations it is not necessary to determine what effect the veto of Sec. 4 has upon the rest of the Act, for it is here maintained that the power and authority to add these courses to "the required course of study" exists irrespective of the provisions or conditions, or existence or non-existence, as a law, of said Chap. 131, and that the expenses of such course may be paid from the school funds of the district.

The course of study, however, should be approved by the county superintendent, as required by subdivision 15, Sec. 875 of the Revised Codes, and it is also advisable to obtain the approval and cooperation of the state superintendent of public instruction.

Very truly yours,

ALBERT J. GALEN,  
Attorney General.