

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 17, 1979

The sixty-second meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink, Chairman on the above date at 9:33 a.m. in Room 331 of the Capitol Building.

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL NO. 865:

Representative Manning gave an explanation of this bill, which is an act to provide for mandatory minimum sentences for crimes involving the molesting or raping of children. He stated that he introduced this bill at the request of some ladies in Great Falls, who felt that sexual crimes against juveniles were not being dealt with severe enough and he felt that this bill would make these crimes as severe as it could be made.

There were no further proponents and no opponents.

Senator Anderson questioned as to whether by definition deviate sexual behavior would mean a deviate rather than a criminal and should be treated as a deviate rather than as a criminal.

Senator Towe questioned the language on lines 15, 16 and 17 on page 1 and said that a child is incapable of consent if he is less than 13 years of age and wondered what this would do with what is already in the bill if a victim is less than 16 years old.

There was some discussion on statutory rape, sexual contact without consent if the victim is under 13 and the offender five or more years older. It was noted that a sexual assault could be a "pat on the fanny".

Karen Townsend, from the county attorney's office in Missoula stated that they have run into many problems in Missoula whereby an older man will tell a child to let me touch and I will give you a dollar. She stated that under those kind of circumstances, they are really in a bind because the child is giving consent and that they do not have a statutory way of

saying the individual is incapable of saying yes.

Senator Towe questioned Ms. Townsend about how she felt about the penalties in this bill. Ms. Townsend stated that she personally has problems with 20 years for sexual assault if the individual is under 16 and she said that she understood that the Legislature is moving toward making mandatory minimum sentences and she said that she did not know if this is bad particularly when talking about very small children.

Joan Mayer commented that the original bill would not allow suspended sentence or parole, but the language has been taken out.

Senator Turnage commented that he would like to preserve the title and amend the other law and stated that the state of Montana did away with rape in Montana and now it is called "sexual intercourse without consent" and he stated that everyone knew what rape meant.

Senator Lensink suggested that the committee let some of these thoughts mature in their minds and act on it Monday. The hearing on this bill closed.

DISPOSITION OF HOUSE BILL 833:

This bill is an act to provide for the creation and conveyancing of solar easements. Valencia Lane, researcher for the committee, stated that right now Montana has a statute in the law for easements for air, light or heat, but it has not been established by any interpretation. She said that California has essentially the same statute with the same wording and they saw fit to add a new subsection to the California law adding a new section specifically in regard to sunlight, but it would appear that you could get an easement now under the Montana statute.

Senator Turnage moved that House Bill 833 be concurred in as amended. The Motion carried unanimously.

DISPOSITION OF HOUSE BILL 787 AND HOUSE BILL 788:

Larry Weinberg, staff attorney for the Legislative Council gave background information on these bills. House Bill 787 is an act to provide for rehabilitation of certain rail facilities; authorizing the issuing of revenue bonds and the making of loans and creating a bureau of rail transportation within the department of highways and House Bill 788 is an act to provide financial assistance for the manufacture, purchase, or lease of certain railroad rolling stock, etc. Mr. Weinberg explained that originally

there was a package of four bills, which created a bureau of transportation and of these four only two were introduced and came through. He stated that the proposed changes are to take out the bureau and put in department, which means the department of highways. He gave an explanation as to what these bills will do.

Senator Anderson noted that it sounds good that bonds should not be sold for less than par, but do they realize how many bonds are sold for less than par. Mr. Weinberg stated that he got the impression that the bonding people thought they could sell them easily. Senator Anderson stated that they could now but what if interest rates go to nine percent.

Senator Towe stated that his concern is that he did not think it was very realistic, that when the Housing Authority sold bonds, any loss would be guaranteed by the U. S. Government and that is why the bonds sold and sold well, and he wondered why they did not avoid that problem by giving industrial revenue bond treatment instead of the housing authority treatment. There was some discussion on this matter.

Joan Mayer from the Legislative Council presented some amendments to House Bill 787, which had been adopted by the Committee on Highways and Transportation.

Senator Towe moved that on page 2, line 18, we amend the amendment by inserting "The department of administration shall assist the department of highways in the issuance and sale of the bonds." The motion carried unanimously.

Senator Brown moved that we delete amendment #3 on the list of amendments from the Committee on Highways and Transportation. The motion carried unanimously.

There was additional discussion and Senator Galt explained that these bills were sent to the Judiciary Committee to be sure that the state was not liable and suggested that we send it back to the highways.

Senator Galt moved that House Bill 787 be concurred in as amended. The motion carried unanimously.

Senator Brown moved that this bill be concurred in as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 836:

Pat Melby, representing the Northern Ski Area Operators Association, gave an explanation of the proposed amendments to this bill, which is an act defining the responsibility and liability of ski area operators and the responsibility and risk borne by skiers.

Senator Towe wondered what would happen if a skier runs into a snow packer with its lights burned out. Mr. Melby stated that this would be under comparative negligence, and the skier would have to assume a risk of that. Senator Towe stated that it would appear to him that he is barred with recovery or portion of recovery and he stated that he did not have a clear picture. There was some discussion in regard to this.

Senator Turnage moved adoption of the amendments. The motion carried unanimously.

Senator Van Valkenburg moved that on page 3, line 8, following "tramway" insert "without seeking approval of the operator". There was much discussion on this motion. Senator Towe moved as a substitute motion that on page 3, line 10, following word "operator" insert "requests or receives instruction before boarding". The motion carried unanimously.

Senator Brown moved that on page 2, line 25, following the word "administration" the bill be amended by inserting "however, nothing in this section relieves an operator from taking whatever actions are necessary to properly construct, operate, maintain or repair a tramway." The motion carried unanimously.

Senator Turnage moved the bill be concurred in as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 774:

Senator Van Valkenburg introduced Karen Townsend, representing the Human Rights Commission and he stated she was a dissenter in the vote in connection with the Hutterite case.

Karen Townsend gave a statement in connection with this bill, which is an act to define marital status as used in the laws governing illegal discrimination and to exclude cohabitation

from the definition of marital status. She stated that she was a member of the Human Rights Commission for two years, she was a dissenter on the vote in the Hutterite case, which decision was on a 3-2 vote. She is with the county attorney's office in Missoula. She was a former teacher and counselor before going to law school. She said that in the Hutterite case, the county attorney was attempting to use bonafide occupational defense because this involved a teacher. She stated that this bill is the result of this case. Two of the people who voted on this case are no longer on the commission and that without a definition of marital status in the statute, it is a real pain in the neck. She gave an example of a woman who was a nurse and her husband was charged with murder in Great Falls and in four months, she was discharged. She further stated that she was concerned about a real narrow definition and they attempted to write to the attorney general to get some guide lines but the attorney general wrote back and told them that they were the experts and they should tell them. She stated that in House Bill 774, the language is tough, and they recommended on page 3, line 16 immediately after the word "cohabitation" the rest of the material be stricken. She said that the commission is not really taking a position except that they do need some kind of a definition.

Senator Turnage moved that on page 3, line 16, after the word "cohabitation", the bill be amended by placing a "." and strike all the remainder of line 16 through 20. The motion carried unanimously.

Senator Towe said that he was concerned about the definition.

Senator Brown questioned if this says that they can be denied employment, housing, etc., because they are cohabiting. He stated that he thought the committee was going to go and say that the only way this would apply would be in school employment situations.

It was suggested that a preamble be put in using whereas and state why the legislature is doing this.

Senator Turnage moved the amendments presented by Joan Mayer.

Senator Brown suggested amending the bill on page 3, lines 15 and 16 by striking "but does not include" and insert "include" and then go and add Joan's amendments.

Senator Turnage said he would have to object - you are raising 'shacking up' to the dignity of marriage.

Senator Brown questioned what we are going to do for the Human Rights Commission and favored a case-by-case basis.

Senator Towe moved that on page 3, line 14, the bill be amended after the word "means" by striking "whether or not a person" and inserting "the status of the person as to whether he" and further amend on page 3, line 15, following "separated" add "." and strike the remainder of lines 15 through 20. The motion carried.

Senator Turnage moved the amendments presented by Joan Mayer with the understanding on subsection (3). The motion carried unanimously.

Senator Brown moved that the bill as amended by concurred in. The motion carried.

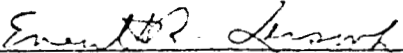
RECONSIDERATION OF SENATE BILL 219:

Senator Turnage said that he had one request of the committee and stated that the fourth judicial district for many years has been comprised of five counties -- Missoula, Ravalli, Mineral, Sanders and Lake and the judges travel a circuit route. He said there is a need for an additional judge over there and this bill has been tabled by the committee.

Senator Van Valkenburg stated that there is a serious question if there is a need to create a new district.

Senator Turnage moved that Senate Bill 219 be taken off the table and do pass. The motion failed by a vote of 2 yeses and 7 nos.

There being no further business, the meeting was adjourned.



SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee

Date 3/12/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

March 2, 1972

VISITORS' REGISTER

[illegible]

March 9, 1979

SENATE STANDING COMMITTEE REPORT
(Highways and Transportation)

That House Bill No. 787 be amended as follows:

1. Page 1, lines 21-22.

Strike: subsection (2) in its entirety

Insert: "'Department" means the department of highways provided
for in 2-15-2501 M.C.A."

2. Page 2, line 14.

Strike: "bureau"

Insert: "department"

3. Page 2, line 17.

Following: "liability," *delete*

Insert: "moral"

4. Page 2, line 18.

Following: "state"

Strike: "line 19 and 20 in their entirety"

Insert: "~~or any of its subdivisions~~"

5. Page 3, line 1.

Strike: "bureau"

Insert: "department"

6. Page 3, line 3.

Strike: "bureau"

Insert: "department"

7. Page 3, line 4.

Strike: "bureau"

Insert: "department"

8. Page 3, line 24.

Strike: "bureau"

Insert: "department"

9. Page 4, line 22.

Strike: "bureau"

Insert: "department"

10. Page 4, line 23.

Strike: "bureau"

Insert: "department"

11. Page 5, line 5.

Strike: "bureau"

Insert: "department"

12. Page 5, line 7.

Strike: "bureau"

Insert: "department"

Exhibit A

13. Page 5, line 11.
Strike: "bureau"
Insert: "department"

14. Page 6, line 3.
Strike: "bureau"
Insert: "department"

15. Page 6, line 9.
Strike: "bureau"
Insert: "department"

16. Page 6, line 10.
Following: "payments"
Strike: "to enable the bureau to meet its"
Insert: "To meet the"

17. Page 6, line 13.
Strike: "bureau"
Insert: "department"

18. Page 6, line 15.
Strike: "bureau"
Insert: "department"

19. Page 6, line 18.
Strike: "bureau"
Insert: "department"

20. Page 6, line 19.
Strike: "bureau"
Insert: "department"

21. Page 7, line 1.
Strike: "bureau"
Insert: "department"

22. Page 7, line 5.
Strike: "bureau"
Insert: "department"

23. Page 7, lines 8 through 10.
Strike: Section 15 in its entirety
Re-number: all subsequent sections

24. Title, lines 6 through 8.
Strike: "and creating a bureau of rail transportation within the
department of highways"
Insert: "by the department of highways"

HB 787

Amend Third Reading copy, as amended by the Senate
Committee on Highways and Transportation

1. Page 1, line 17.

Following: line 16

Strike: "14"

Insert: "13"

2. Senate Committee Amendment #1.

Amend to read:

"Page 1, lines 21 and 22.

Following: "(2)" on line 21

Strike: remainder of line 21 through "15]" on line 22

Insert: "Department" precede the department of highways

3. Page 2, line 16.

Following: "through"

Strike: "14"

Insert: "13"

Following: "."

Insert: "The department of administration shall assist the
of highways in the issuance and sale of the bonds."

4.

Senate Committee Amendment #3.

Strike: the amendment in its entirety

5. Senate Committee Amendment #4.

Amend to read:

"Page 2, line 20.

Following: line 19

Strike: "bureau"

Insert: "department acquired or held in connection with rehabilitation projects"

6. Page 4, line 24.

Following: "through"

Strike: "14"

Insert: "13"

7. Senate Committee Amendment #16.

Amend to read:

"Page 6, lines 10 and 11.

Following: "payments" on line 10

Strike: "to enable the bureau to meet its"

Insert: "to meet the"

8. Page 6, line 24 through line 7 on page 7.

Strike: section 14 in its entirety

Re-number: all subsequent sections

3-17-79

HB 836

2. Page 2, line 25.

Following: "administration."

Insert: "However, nothing in this section relieves an operator from the duty of taking whatever other actions are necessary to properly construct, ~~maintain~~ operate, maintain, and repair a passenger tramway."

1. Page 1, line 24.

Following: "include"

Strike: "the use of"

Insert: "a person using"

3. Page 3, line 10.

Following: "operator"

Insert: "or requests and receives instruction before boarding"

~~HB 836 (continued)~~

HB 836 (continued)

4. Page 4, line 19 through line 10 on page 5.

Strike: sections 7 through 9 in their entirety

Reinsert: subsequent section

5. Page 5, lines 13 and 14.

Strike: ", consistent with the provisions of [this act], "

6. Page 5, line 14.

Following: "recovery"

Insert: "from a ski area operator"

7. Page 5, lines 15 through 17.

Following: "skiing" on line 15

Strike: remainder of line 15 through "situation" on line 17

Insert: "as described in [section 6]."

HB 833

1. Page 1, line 17.
Following: "i"
Insert: "and"

2. Page 1, lines 19 through 24.
Following: "terminated" on line 19
Strike: remainder of line 19
through "the color easement" on
line 24

2. Page 1.

Following: line 7

Insert: "WHEREAS, teachers have a unique role in children's lives; and

WHEREAS, teachers are important role models for children; and

WHEREAS, the proper functioning of schools can be disrupted if a teacher's life style so far deviates from the expectations of parents that the ~~entire~~ entire community is thrown into turmoil.

THEREFORE, it is the intent of this bill to allow local school boards ~~to~~ to take into consideration, in formulating their employment policies, the effect a teacher's cohabitation has on ~~the~~ his performance as a teacher and on the smooth functioning of the school and the peace of the community."

1. Title, lines 4 through 7.

Following: "TO" on line 4

Title: remainder of line 4 through "49-2-101" on line 7

Insert: "PROVIDE AN EXCEPTION TO THE PROHIBITION ON DISCRIMINATION IN EMPLOYMENT BASED ON MARITAL STATUS IN CERTAIN LIMITED CIRCUMSTANCES; AMENDING SECTION 49-2-303"

2. Page 1 line 10 through ~~page~~ line 3 on page 5.

Following: line 9 on page 1

Title: ~~subsection~~ 1 in ~~its~~ its entirety

Insert: "Section 1. Section 49-2-303, MCA, is amended to read

"49-2-303. Discrimination in employment. (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, creed, religion, marital status, color, or national origin or because of his age, physical or mental handicap, or sex when the reasonable demands of the position do not require an age, physical or mental handicap, or sex distinction;

(b) a labor organization or joint labor management committee controlling apprenticeship to exclude or expel any person from its membership or from an apprenticeship or training program or to discriminate in any way against a member of or an applicant to the labor organization or an employer or employee because of race, marital status, creed, religion, color, or national origin or because of his age, physical or mental handicap, or sex when the reasonable demands of the program do not require an age, physical or mental handicap, or sex distinction;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication or to use an employment application which expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(d) an employment agency to fail or refuse to refer for employment, to classify, or otherwise to discriminate against any individual because of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin, unless based upon a bona fide occupational qualification;

(2) The exceptions permitted in subsection (1) based on bona fide occupational qualifications shall be strictly construed.

(3) The board of trustees of an elementary or high school district may develop a policy, ~~requiring~~ requiring the refusal of employment or dismissal of a teacher who is cohabiting with ~~any~~ an unrelated person of the opposite sex. ""

except as provided in
subsection (3),

2. Page 1.

Following: line 7

Insert: "WHEREAS, teachers have a unique role in children's lives; and

WHEREAS, teachers are important role models for children; and

WHEREAS, the proper functioning of schools can be disrupted if a teacher's life style so far deviates from the expectations of parents that the ~~entire~~ entire community is thrown into turmoil.

THEREFORE, it is the intent of this bill to allow local school boards ~~that~~ to take into consideration, in formulating their employment policies, the effect a teacher's cohabitation has on ~~the~~ his performance as a teacher and on the smooth functioning of the school and the peace of the community."

1. Title, lines 4 through 7.

Following: "TO" on line 4

Strike: remainder of line 4 through "49-2-101" on line 7

Insert: "PROVIDE AN EXCEPTION TO THE PROHIBITION ON DISCRIMINATION IN EMPLOYMENT BASED ON MARITAL STATUS IN CERTAIN LIMITED CIRCUMSTANCES; AMENDING SECTION 49-2-303"

2. Page 1 line 10 through ~~page~~ line 3 on page 5.

Following: line 9 on page 1

Strike: ~~subsection 1 in its entirety~~

Insert: "Section 1. Section 49-2-303, MCA, is amended to read

"49-2-303. Discrimination in employment. (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, creed, religion, marital status, color, or national origin or because of his age, physical or mental handicap, or sex when the reasonable demands of the position do not require an age, physical or mental handicap, or sex distinction,

(b) a labor organization or joint labor management committee controlling apprenticeship to exclude or expel any person from its membership or from an apprenticeship or training program or to discriminate in any way against a member of or an applicant to the labor organization or an employer or employee because of race, marital status, creed, religion, color, or national origin or because of his age, physical or mental handicap, or sex when the reasonable demands of the program do not require an age, physical or mental handicap, or sex distinction,

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication or to use an employment application which expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin or an intent to make the limitation, unless based upon a bona fide occupational qualification,

(d) an employment agency to fail or refuse to refer for employment, to classify, or otherwise to discriminate against any individual because of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin, unless based upon a bona fide occupational qualification.

(2) The exceptions permitted in subsection (1) based on bona fide occupational qualifications shall be strictly construed.

(3) The board of trustees of an elementary or high school district may develop a policy, ~~to prohibit~~ requiring the refusal of employment or dismissal of a teacher who is cohabiting with ~~any~~ an unrelated person of the opposite sex. ""

except as provided in
subsection (3),

SENATE COMMITTEE JUDICIARY

Date 3/17 debate Bill No. 219 Time 11:29

NAME	YES	NO
Lensink, Everett R., Chr. (R)		✓
Olson, S. A., V. Chr. (R)		✓
Turnage, Jean A. (R)	✓	
O'Hara, Jesse A. (R)		✓
Anderson, Mike (R)		✓
Galt, Jack E. (R)	✓	
Towe, Thomas E. (D)		✓
Brown, Steve (D)		✓
Van Valkenburg, Fred (D)		✓
Healy, John E. (Jack) (D)		✓

2 7

Secretary _____ Chairman _____

Motion: Motion to take up Bill
to pass

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 17 19 79

MR. President

We, your committee on Judiciary

having had under consideration House Bill No. 833

McBride (Turnage)

Respectfully report as follows: That House Bill No. 833,

third reading bill, be amended as follows:

1. Page 1, line 17.

Following: ";"

Insert: "and"

2. Page 1, lines 19 through 24.

Following: "terminated" on line 19

Strike: remainder of line 19 through "the solar easement" on line 24

And, as so amended,
BE CONCURRED IN

MESSX

STANDING COMMITTEE REPORT

March 19

79

19

MR. President

Judiciary

We, your committee on

having had under consideration House Bill No. 788

Person (Jergeson)

Respectfully report as follows: That House Bill No. 733

Amend Third Reading copy, as amended by the Senate Committee on
Highways and Transportation

1. Senate Committee Amendment #7. Amend to read:

Page 2, line 18.

Following: line 17

Strike: "bureau"

Insert: "department acquired or held in connection with
rolling stock projects"

And, as so amended

BE CONCURRED IN

DO PASS

STANDING COMMITTEE REPORT

March 19, 19 79

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 787

Obery (Jergeson)

Respectfully report as follows: That House Bill No. 787, third reading bill, as amended by the Senate Committee on Highways and Transportation, be amended as follows:

1. Page 1, line 17.

Following: line 16

Strike: "14"

Insert: "13"

2. Senate Committee Amendment #1.

Amend to read:

"Page 1, lines 21 and 22.

Following: "(2)" on line 21

Strike: remainder of line 21 through "15]" on line 22

Insert: "'Department" means the Department of highways"

3. Page 2, line 16.

Following: "through"

Strike: "14"

Insert: "13"

Following: "."

Insert: "The department of administration shall assist the department of highways in the issuance and sale of the bonds."

(continued)

4. Senate Committee Amendment #3.
Strike: the amendment in its entirety

5. Senate Committee Amendment #4.

Amend to read:

"Page 2, line 20.

Following: line 19

Strike: "bureau"

Insert: "department acquired or held in connection with rehabilitation projects"

6. Page 4, line 24.

Following: "through"

Strike: "14"

Insert: "13"

7. Senate Committee Amendment #16.

Amend to read:

"Page 6, lines 10 and 11.

Following: "payments" on line 10

Strike: "to enable the bureau to meet its"

Insert: "to meet the"

8. Page 6, line 24 through line 7 on page 7.

Strike: section 14 in its entirety

Renumber: all subsequent sections

And, as so amended,

BE CONCURRED IN

STANDING COMMITTEE REPORT

March 19, 19 79

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 836

Scully (Van Valkenburg)

Respectfully report as follows: That House Bill No. 836, third reading bill, be amended as follows:

1. Page 1, line 24.
Following: "include"
Strike: "the use of"
Insert: "a person using"
2. Page 2, line 25.
Following: "administration."
Insert: "However, nothing in this section relieves an operator from the duty of taking whatever other actions are necessary to properly construct, operate, maintain, and repair a passenger tramway."
3. Page 3, line 10.
Following: "operator"
Insert: "or requests and receives instruction before boarding"
4. Page 4, line 19 through line 10 on page 5.
Strike: sections 7 through 9 in their entirety
Renumber: subsequent section
DOWPASSX

(continued)

5. Page 5, lines 13 and 14.

Strike: ", consistent with the provisions of [this act],"

6. Page 5, line 14.

Following: "recovery"

Insert: "from a ski area operator"

7. Page 5, lines 15 through 17.

Following: "skiing" on line 15

Strike: remainder of line 15 through "situation" on line 17

Insert: "as described in [section 6]"

And, as so amended,
BE CONCURRED IN

HB 836

1. Page 4, line 19 through line 10 on page 5.

Strike: sections 7 through 9 in their entirety

Reinsert: subsequent section

2. Page 5, lines 13 and 14.

Strike: ", consistent with the provisions of [this act], "

3. Page 5, line 14.

Following: "recovery"

Insert: "from a ski area operator"

4. Page 5, lines 15 through 17.

Following: "skiing on line 15"

Strike: remainder of line 15 through "situation" on line 17

Insert: "as described in [section 6]."

STANDING COMMITTEE REPORT

March 13, 1979

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 774

*These amendments were
not considered*

Respectfully report as follows: That House Bill No. 774

third reading bill, be amended as follows:

1. Title, lines 4 through 7.

Following: "TO" on line 4

Strike: remainder of line 4 through "49-2-101" on line 7

Insert: "PROVIDE AN EXCEPTION TO THE PROHIBITION ON DISCRIMINATION IN
EMPLOYMENT BASED ON MARITAL STATUS IN CERTAIN LIMITED CIRCUMSTANCES;
AMENDING SECTIONS 49-2-101 AND 49-2-303"

2. Page 1.

Following: line 7

Insert: "WHEREAS, teachers have a unique role in children's lives; and
WHEREAS, teachers are important role models for children; and
WHEREAS, the proper functioning of schools can be disrupted if a
teacher's life style so far deviates from the expectations of parents
that the entire community is thrown into turmoil.

THEREFORE, it is the intent of this bill to allow local school boards
to take into consideration, in formulating their employment policies,
the effect a teacher's cohabitation has on his performance as a teacher
and on the smooth functioning of the school and the peace of the community

DO PASS

(continued)

3. Page 3, line 14.

Following: "means"

Strike: "whether or not"

Insert: "the status of"

Following: "person"

Insert: "as to whether he"

4. Page 3, lines 15 through 20.

Following: "separated" on line 15

Strike: remainder of line 15 through "law" on line 20

5. Page 5.

Following: line 3

Insert: "Section 2. Section 49-2-303, MCA, is amended to read:

"49-2-303. Discrimination in employment. (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, creed, religion, marital status, color, or national origin, except as provided in subsection (3), or because of his age, physical or mental handicap, or sex when the reasonable demands of the position do not require an age, physical or mental handicap, or sex distinction;

(b) a labor organization or joint labor management committee controlling apprenticeship to exclude or expel any person from its membership or from an apprenticeship or training program or to discriminate in any way against a member of or an applicant to the labor organization or an employer or employee because of race, marital status, creed, religion, color, or national origin or because of his age, physical or mental handicap, or sex when the reasonable demands of the program do not require an age, physical or mental handicap, or sex distinction;

(c) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication or to use an employment application which expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(d) an employment agency to fail or refuse to refer for employment, to classify, or otherwise to discriminate against any individual because of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin, unless based upon a bona fide occupational qualification.

(2) The exceptions permitted in subsection (1) based on bona fide occupational qualifications shall be strictly construed.

(continued)

These amendments were reconsidered

March 19, 19 79

(3) The board of trustees of an elementary or high school district may develop a policy requiring the refusal of employment or dismissal of a teacher who is cohabiting with an unrelated person of the opposite sex."

And, as so amended,
BE CONCURRED IN

Three amendments were reconsidered.

EVERETT R. LENSINK,

Chairman.

SENATE COMMITTEE JUDICIARYDate 3/17 Senate Bill No. 219 Time 11:39

NAME	YES	NO
Lensink, Everett R., Chr. (R)		✓
Olson, S. A., V. Chr. (R)		✓
Turnage, Jean A. (R)	✓	
O'Hara, Jesse A. (R)		✓
Anderson, Mike (R)		✓
Galt, Jack E. (R)	✓	
Towe, Thomas E. (D)		✓
Brown, Steve (D)		✓
Van Valkenburg, Fred (D)		✓
Healy, John E. (Jack) (D)		✓

2 7

Secretary _____

Chairman _____

Motion: Motion to take off table &do pass.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/12 March Bill No. 517 Time 11:29

NAME	YES	NO
Lensink, Everett R., Chr. (R)		✓
Olson, S. A., V. Chr. (R)		✓
Turnage, Jean A. (R)	✓	
O'Hara, Jesse A. (R)		✓
Anderson, Mike (R)		✓
Galt, Jack E. (R)	✓	
Towe, Thomas E. (D)		✓
Brown, Steve (D)		✓
Van Valkenburg, Fred (D)		✓
Healy, John E. (Jack) (D)		✓

2 7

Secretary _____

Chairman _____

Motion: Motion to take off table

dispose

(include enough information on motion--put with yellow copy of committee report.)