

HOUSE EDUCATION COMMITTEE

January 14, 1983

The meeting was called to order by Chairman Daily in room 420 of the Capitol Building at 12:40 p.m., with all members present.

Chairman Daily opened the meeting to a hearing of House Bills: 124, 89.

HOUSE BILL 124

REPRESENTATIVE RALPH EUDAILY, District 100, Missoula, chief sponsor, opened by saying this bill is an effort to repeal unconstitutional language from the Montana Codes and to make legal in practice what we are doing in actual practice. The law currently states that after March 7, 1923, only such registered electors of the school district who's names appear on the last preceding assessment role shall be entitled to vote on any proposal to create an increase or increase any indebtedness to the school districts. I have two attorney general's opinions which state otherwise. Taxpayer qualifications provided for in Article 9, Section 2, Constitution of Montana, are no longer valid. It is no longer mandatory to stamp taxpayer beside the name of an elector or a list of registered electors. A further opinion states property ownership is not a qualification for voting in an election to create or increase a school district's indebtedness. We have to go by these opinions. We are asking you to repeal the section that refers to this section and to follow by the attorney general's opinions.

PROPONENTS

CHIP ERDMANN, Montana School Board Association, said this section has been held to be unconstitutional by two attorney generals. It currently is a source of great confusion to school districts and county attorneys who are not familiar with the law. We support this bill which would delete Section 20-20-302.

GARY STEUERWALD, Office of Public Instruction, said most school districts, after a great deal of research, find out they cannot require voters for bond issues to be taxpayers. Every year we get over 30 calls concerning this. We support the bill in order to clear up this confusion.

ROBERT McCUE, representing the Secretary of State, said he is in concurrence with the other two gentlemen, and would very much like to see House Bill 124 passed for the same reasons.

Rep. Eudaily closed.

Questions from committee members. Chairman Daily asked Mr. Erdmann if when determining something unconstitutional, do we rely on attorney general's opinions, or do we usually try to have some kind of a court decision, or were there court decisions made causing the attorney generals to say these laws are wrong. Mr. Erdmann said the United States Supreme Court acted on a similar statute in another state, and the Montana Attorney General felt this was precedent.

Chairman Daily then asked if we were to pass this bill and remove that section of law, at a later date could they take this to court and have it ruled unconstitutional? Mr. Erdmann replied I don't believe so. If you pass this bill, it would effectively repeal the law in Montana.

Chairman Daily closed the hearing on House Bill 124, at 1:40 p.m.

HOUSE BILL 89

REPRESENTATIVE WILLIAM HAND, District 82, Dillon, said if any of you had a child or grandchild who wanted to visit this 48th legislature, you would be very ill advised to offer your car as transportation. All vehicles operated for or by public school districts for the purpose of transporting children to and from school are considered school busses, falling within the meaning of Section 61-1-116, MCA. Accordingly, they must comply with the statutory provisions of the Motor Vehicle Code Title 61, MCA, relating to school bus equipment, operation, and inspection. Here, we are addressing the problems of schools, particularly the types of schools that do not have school busses. This bill entitles the Board of Education to grant permission to the school boards to allow transportation using motor vehicles for extra-curricular activities.

PROPOSERS

REPRESENTATIVE NANCY KEENAN, District 89, Anaconda, rose to support House Bill 89. Presently, I teach and have kids that go to swimming lessons. I have written permission slips from home. As I understand it, those slips don't hold water. I am in violation when I do transport.

KATHRYN PENROD, Montana Advisory Council for Vocational Education, said that traveling to and from different activities is an important part of some of the vocational education programs. Usually only a few students attend these different activities. To require school busses to be available is a hindrance to the educational opportunities for students in this area. I support House Bill 89 as it is written.

OPPONENTS

GARY STEUERWALD, Office of Public Instruction, said the Superintendent of Public Instruction has no control over the vehicles used to transport to and from these activities. There is established data stating that school children are 10 times safer when transported in school buses. Our primary concern is the protection of the responsible parties from possible liability suits. We don't believe that the Board of Public Education has the right to grant transportation of school children to and from extracurricular activities. This should be the decision of the local trustee. How will the Board of Education come up with minimum standards? Who will inspect these vehicles, and when they should be inspected, how will this be accomplished for vehicles owned by parents or others who use this form of transportation? How will it be determined how many principal vehicles will be needed for an entire year? Finally, the opposition is centered around what this bill seems to do as far as reimbursement rights for private operators of vehicles. This bill seems to indicate that the state will reimburse private vehicles for their mileage, and for this reason, we are opposing House Bill 89.

CHIP ERDMANN, Montana School Board Association, said currently, if a parent transports children for the district, we feel the district is liable or partially liable if an accident happens, by either requesting or acquiescing to the transportation. We are afraid that some of the parents will not or cannot meet minimum standards and that this alone will not stop them from transporting. We feel this is a serious problem that may be better addressed through an amendment to the section which defines school bus.

Rep. Hand closed by stating that I simply want some means to move those out of the way kids from one place to another without doing it illegally.

Questions from committee members. Rep. Donaldson asked if it is the Office of Public Instruction that handles reimbursement, or the Board of Education. Mr. Erdmann answered that the Board of Education sets the standards, we just do the reimbursement.

Rep. Lory asked if when a carrier accepts money for transportation, is he then liable for accidents? Mr. Erdmann answered I believe that interpretation is correct.

Rep. Kitselman explained that there is a special insurance for schools that covers this aspect of liability, the cost is extremely high.

Rep. Eudaily asked Rep. Hand what the minimum standards would be. The reply was the Board of Education could make those standards.

Rep. Kadas asked Mr. Erdmann if a car were to meet these standards and get in an accident, would the Board of Education be liable? The response was if they met the requirements, they would no longer be liable, the driver would be liable.

Rep. Nilson pointed out that nobody is making anybody do anything. Rep. Hand agreed.

Rep. Kadas asked about the effects of parental permission by signing the slips. Mr. Erdmann said that in this case, the carrier does not relinquish the liability if it was negligence.

Hearing on House Bill 89 closed at 1:10 p.m.

EXECUTIVE SESSION

House Bill 124

Rep. Hammond moved, DO PASS, the motion passed unanimously.

House Bill 30

Rep. Lory moved DO PASS.

Rep. Kitselman moved amendments to House Bill 30, DO PASS, the motion passed unanimously. (see exhibit 2)

House Bill 30 DO PASS WITH AMENDMENTS, the motion passed 13-3.

House Bill 49

Rep. Keenan moved, DO NOT PASS,

Rep. Sands moved to amend.

Discussion by committee. Rep. Sands stated I have prepared an amendment because when I was sitting listening to the testimony, it seemed there were points of view expressed by both sides that made sense. The proponents believe that if someone wants to propose an alternative form of education, they should have the chance to do so. For those who opposed, the State of Montana has the requirement that each student has an adequate education. There would be no way of ensuring this with the bill as it was read, no way to enforce this requirement. This amendment leaves the transportation provision but adds a second requirement that a student could be exempt from compulsory requirements if they submitted to an annual examination. This examination would be nationally recognized

and would be selected by the Board of Public Education, and administered by a person acceptable to the Office of Public Instruction. At the request of OPI, I have put in a provision that would make this effective only until June 1987, making it a trial program. OPI has said they would not oppose these amendments.

Ms. Merrill explained that to add these amendments involving the state again in home schools would be inversing the original intent to get the state agencies out of the home school, to the point where the sponsor may have problems with it.

Rep. Sands said I have discussed this amendment with the sponsor of the bill, and he does not object to it. I do not feel it reverses the intent.

Chairman Daily ruled that the committee would accept the amendments. (copy of amendments attached see exhibit 1)

Rep. Eudaily said I have a problem with the fact that there may somewhere down the line be three bills dealing with the same type of situation. I would like to have a chance to see if these amendments could fit better into another bill.

Rep. Peck voiced his concern with age as a requirement. A student may be over age for their present grade level. Rep. Sands said you may well never have grades as such in the home schools

Rep. Keenan asked Rep. Sands about costs for actually administering the tests and determining the percentile for the region. The response was that the costs would be borne by the County Superintendent of Schools.

Rep Hannah moved a substitute motion to strike everything after "approval" in amendments. Motion failed 11-5.

Motion to amend House Bill 49 passed 10-6.

Rep. Eudaily moved a substitute motion, House Bill 49 as amended be tabled. The motion passed 13-3.

The meeting was adjourned at 1:50 p.m.


FRED (FRITZ) DAILY, Chairman


Cheryl Fredrickson, secretary

Education

COMMITTEE

89

1/14/83

Bill Hand

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE Education

COMMITTEE

BILL # 124

Date 1/14/83

SPONSOR Ralph Enderby

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Amendment to HB 49

on page 2 strike lines 7,8 and 9 and insert in lieu thereof:

- "(c) provided with supervised correspondence study or supervised home study --
 - (i) under the transportation provisions of this title, or
 - (ii) where the student (a) takes an annual, nationally-recognized examination (such as the Iowa Test of Basic Skills, Stanford Achievement Test, California Achievement Test, or the Science Research Associates Test), selected by the board of public education and administered by a person acceptable to the county superintendent of schools, and meets or exceeds the 40th percentile level for all students of the same age in this region in each category of testing (vocabulary, reading, mathematics, language arts, science, and social sciences), or (b) is enrolled in a program approved by the board of public education."

on page 2, after line 25 add:

"This act shall be effective on passage and approval, and terminates on June 30, 1987."

1. Title.

Following: line 6

Insert: "TO REPEAL THE REQUIREMENT THAT EVERY PROFESSOR,
INSTRUCTOR, OR TEACHER EMPLOYED BY ANY UNIT OF THE UNIVERSITY
SYSTEM SHALL SUBSCRIBE TO AN OATH BEFORE ENTERING EMPLOYMENT;"

2. Title, line 7.

Following: "MCA"

Insert: ";AND REPEALING SECTION 20-25-106, MCA"

3. Page 4.

Following: line 4.

Insert: "Section 3. Repealer. Section 20-25-106, MCA, is
repealed."

20-25-106. Oath required. (1) Every professor, instructor, or teacher employed by any unit of the university system shall subscribe to the following oath or affirmation before some officer authorized by law to administer oaths:

"I solemnly swear (or affirm) that I will support The Constitution of the United States of America, The Constitution of the State of Montana, and the laws of the United States and the state of Montana and will, by precept and example, promote respect for the flag and the institutions of the United States and the state of Montana, reverence for law and order, and undivided allegiance to the government of the United States of America."

(2) This oath shall be executed in duplicate before entering upon duty. One copy shall be filed with the president of the employing unit and one copy retained by the subscriber.

(3) The above requirements shall not apply to exchange professors or temporary employees.

WITNESS STATEMENT

NAME Chip Erdmann BILL No. 124
ADDRESS Helena DATE 1/14/83
WHOM DO YOU REPRESENT MT School Bd Assoc
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This section has been held to be unconstitutional by 2 Attorney Generals. It currently is a source of great confusion to school districts and county attorneys who are not familiar with school law. We support this bill which would delete section 20-20-302.

WITNESS STATEMENT

NAME

Chap Eromann

BILL No.

89

ADDRESS

Helen

DATE

1/14/83

WHOM DO YOU REPRESENT

MT School Bd Assoc

SUPPORT

OPPOSE

☒

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We feel this is a serious problem that ~~may~~ maybe better addressed through an amendment to the section which defines school bus.

This bill would potentially increase the liability of the driver and the district if they did not meet the board of education standards.

WITNESS STATEMENT

NAME Gary Steuerwald BILL No. 89
ADDRESS Helena DATE 1-14-83
WHOM DO YOU REPRESENT OP
SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

HB-89

Poses a great problem with regard to liability of the owner of the vehicle, trustee State Bd. And the establishment of "minimum standards".

Secondly, this bill seems to provide for reimbursement for private vehicle, currently, no private vehicle or any other is reimbursed for use during extra-curricular activities. OPI oppose reimbursement of this type.

STANDING COMMITTEE REPORT

January 21, 83

19

MR. **SPEAKER:**

We, your committee on **EDUCATION AND CULTURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **39**

first

reading copy (**white**)
color

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE USE OF
PRIVATELY OWNED VEHICLES FOR TRANSPORTING STUDENTS TO AND
FROM EXTRACURRICULAR ACTIVITIES; AMENDING SECTION 20-10-111,
MCA."

Respectfully report as follows: That **HOUSE** Bill No. **39**

DO NOT PASS
XXXXXX
DO PASS

STANDING COMMITTEE REPORT

January 14

83

19.....

MR. SPEAKER:.....

We, your committee on EDUCATION AND CULTURAL RESOURCES.....

having had under consideration HOUSE Bill No. 124.....

first reading white
(color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL SECTION
20-20-302, MCA, RELATING TO SPECIAL QUALIFICATIONS FOR
VOTING ON SCHOOL BOND ISSUES."

Respectfully report as follows: That..... HOUSE Bill No. 124.....

DQ PASS