

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By CHAIRMAN DARYL TOEWS, on March 17, 1995, at
3:26 p.m.

ROLL CALL

Members Present:

Sen. Daryl Toews, Chairman (R)
Sen. John R. Hertel, Vice Chairman (R)
Sen. C.A. Casey Emerson (R)
Sen. Loren Jenkins (R)
Sen. Kenneth "Ken" Mesaros (R)
Sen. Steve Doherty (D)
Sen. Gary Forrester (D)
Sen. Barry "Spook" Stang (D)
Sen. Mignon Waterman (D)

Members Excused: Sen. Delwyn Gage (R)

Members Absent: N/A

Staff Present: Eddy McClure, Legislative Council
Janice Soft, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None
Executive Action: HB 369

EXECUTIVE ACTION ON HOUSE BILL 369

Motion: SEN. STEVE DOHERTY MOVED TO ADOPT AMENDMENTS
HB036905.AEM (EXHIBIT 1).

Discussion: SEN. STEVE DOHERTY explained the amendments, and
said they contained a state directive for local trustees to adopt
a policy which would be distributed to the parents, i.e. local
control was removed. However, local control was evident by
trustee authority to choose the wording of the policy and to go
further than the Federal standard (Montana Constitution allows
this).

SEN. LOREN JENKINS asked if any other school board policy appeals went to the Board of Public Education. **Wayne Buchanan** said there were none.

SEN. MIGNON WATERMAN asked if there was another instance where the legislature required school boards to establish a policy which would spell out the appeals process. **Eddye McClure** said she didn't think so.

SEN. WATERMAN said schools must have policies which were required through the accreditation standards; these were done through the rules process. She said she was troubled by the amendments because the movement was toward the legislature mandating through statute that school boards establish policies, i.e. movement from local control. **SEN. WATERMAN** opined it would be more appropriate for the Board of Public Education to issue the mandate to local schools.

SEN. BARRY "SPOOK" STANG agreed with **SEN. WATERMAN**, explaining he too had worked to keep local control. He said the problem should be taken to local school boards or Board of Public Education.

SEN. JENKINS asked why teachers would not also be furnished with the policies. **SEN. DOHERTY** said it was assumed the teachers would receive it. **Eddye McClure** said the minimum requirement was to provide parents with the policy; in addition, they could give the policy to whomever they wished.

SEN. JENKINS said personally, **HB 369** stimulated one of the greatest constituent responses, and the response urged support. He said **HB 369** just reaffirmed the Constitution to Montana's people; if **HB 369** is not passed, there could be a lawsuit some day against the school boards for not following the Constitution. **SEN. JENKINS** was of the opinion a mandate was not being given to the schools.

SEN. KEN MESAROS concurred local control should be utilized; however, testimony gave evidence the problem wasn't being resolved in that manner. **SEN. MESAROS** maintained **HB 369** gave another vehicle to use.

SEN. CASEY EMERSON commented the amendments attempted to keep the local control issue, yet he could understand the suggested appeal process to the Board of Public Education. It was his opinion school people in the past few years have veered from the privacy freedoms guaranteed by the Constitution.

SEN. JOHN HERTEL shared his experiences of successfully solving problems at the local level and wondered if the proponents of **HB 369** had truly pursued solution at the local level. He said the standard set by the legislature may be good for one school, but not for another.

SEN. GARY FORRESTER asked Montana School Boards Association their opinion on the amendments. **Michael Keedy** said the committee would be accepting a Federal mandate, incorporating by reference into state statute Federal law which could change in the future, passing it as a state mandate to the local trustees and drawing the Board of Public Education into the picture as well. **Mr. Keedy** said **HB 369** was a very broad but simultaneously restrictive criteria which a school board would have to meet.

SEN. STANG said he heard the proponents state their problem but never heard them say they went to the school board for resolution, only to be turned down. He wondered if the proponents had followed through on all available remedies before coming to the legislature.

SEN. JENKINS asked if schools who receive Federal funds are under the Federal mandates covered by **HB 369**. **Eddy McClure** said they were; however, **HB 369** said regardless of the funding, Federal regulations would be applied. **SEN. JENKINS** commented the schools should already be operating under the Federal privacy regulations, but according to the testimony, some schools are not. **Eddy McClure** said without **HB 369**, schools are under Federal law; however, schools haven't always notified the parents of this privacy law.

SEN. EMERSON commented perhaps the reason for much of the problem was the Federal government setting up great-sounding programs which became twisted as they were passed to the state which in turn passed them to the local districts. He gave Outcome Based Education as an example, explaining its intent was to measure academic outcome but was now based on feelings and dealing with them. He also said Goals 2000 started as a program which looked good, but now as it's coming down, seems to be undesirable.

SEN. DOHERTY asked if it wouldn't be prudent to ask the Board of Public Education how they felt about being involved. **Wayne Buchanan** said he didn't see a large number of appeals coming to the Board of Public Education.

SEN. WATERMAN asked what the accreditation standards required regarding the appeals process to the Board of Public Education. **Wayne Buchanan** said any of the accreditation standards could be appealed before the Board; however, they did not get a great number.

SEN. WATERMAN asked if there were specific policies the Board of Public Education required schools to establish. **Gail Gray** said academic freedom, materials selection and property right are required in the accreditation standards. **SEN. WATERMAN** asked if each of those had an appeals process spelled out in the accreditation standards. **Gail Gray** said none of those had an appeals process; however, schools could ask for changes.

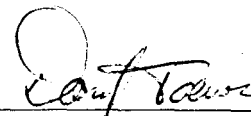
SEN. JENKINS commented the amendments basically covered: (1) Notifying parents of the policy guaranteed by the Constitution; (2) Setting up an appeals process. He said right now, without **HB 369** and the amendments, the only remedy is to go to district court.

Vote: Motion to adopt Amendments HB036905.AEM **CARRIED** 7-2 on a voice vote, with **SEN. WATERMAN** and **SEN. STANG** voting "No."

Motion/Vote: **SEN. CASEY EMERSON** MOVED **HB 369 AS AMENDED BE CONCURRED IN.** Vote was by Roll Call #1, but was left open for **SEN. DELWYN GAGE**, who was excused. **FINAL VOTE** was 5-5.

ADJOURNMENT

Adjournment: The meeting adjourned at 4:06 p.m.



SEN. DARYL TOEWS, Chairman



JANICE SOFT, Secretary

DT/jes

CS-09

MONTANA SENATE
1995 LEGISLATURE

DATE 3/17/95 BILL NO. HB 369 NUMBER 1

MOTION: HB 369 Be Concurred In as amended.

[illegible]

Amendments to House Bill No. 369
Third Reading Copy

Requested by Senator Doherty
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
March 15, 1995

1. Title, line 6.

Strike: "AND PERSONNEL"

2. Title, line 7.

Following: "TO"

Insert: "DEVELOP A POLICY TO"

Following: "WITH"

Insert: "MINIMUM"

3. Title, line 8.

Following: "RIGHTS;"

Insert: "AUTHORIZING TRUSTEES TO PROVIDE ADDITIONAL PRIVACY
PROTECTIONS UNDER THE STATE CONSTITUTION;

4. Page 1, line 30.

Following: "**federal**"

Insert: "or state"

5. Page 2, line 1.

Following: "**policies**"

Insert: "-- procedures"

6. Page 2, lines 1 through 10.

Following: "(1)" on line 1

Strike: remainder of line 1 through "." on line 10

Insert: "The board of trustees of a school district shall, at a minimum, comply with the protections provided under federal law for family and student privacy in the administration and operation of school district programs that are funded by federal or state sources.

(2) The trustees of a school district shall adopt policies to comply with the minimal requirements of subsection (1) and may also adopt policies to provide privacy protection that is guaranteed by Article II, sections 10 and 15, of the Montana constitution.

(3) The policies adopted by the board must, at a minimum,:

(a) provide each student's parent or guardian with written notification of the provisions of the district's policy at the beginning of each school year; and

(b) include information providing notice to the parent or guardian of the right to file a written complaint regarding an alleged violation of district policy.

(4) If a complaint is filed by a parent or guardian pursuant to this section, the board of trustees shall, within 10

days following the next regular meeting of the board, issue a written decision, including a finding of facts and a reason for its decision.

(5) The decision by the board of trustees may be appealed directly to the board of public education. Within 10 days following the next regular meeting of the board of public education, it shall issue a written decision, including a finding of facts and a reason for its decision. The decision by the board of public education constitutes a final order, which is subject to the provisions of Title 2, chapter 4, relating to final agency decisions or orders, including judicial review under Title 2, chapter 4, part 7.

(6) The decision by the board of public education may be appealed to district court not later than 30 days after the date of the final order."