

EXHIBIT 1

DATE 1/27/11

HB 247

HSLDA

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January 24, 2011

The Honorable Mark Blasdel
Chair, House Taxation Committee
Montana Legislature
Capitol Building
Helena, MT 59601

Re: House Bill 247

Dear Representative Blasdel:

By way of introduction, Home School Legal Defense Association is a national organization which has as its primary purpose the protection of the right of parents to teach their children at home. We presently have more than 81,000 member families in all 50 states and the District of Columbia, with over 400 members in Montana.

I write to you in opposition to House Bill 247, which would change the definition of a "dependent" for income tax purposes and thereby affect thousands of Montana families, including those who teach their children at home. This bill would provide that a child who is over the age of 12 and under the age of 19 may not be claimed as a dependent on a state income tax return unless the child is enrolled in school or has received a high school diploma or GED.

The current compulsory school attendance age in Montana is from 7 to 16 or completion of the eighth grade, whichever is later. House Bill 247 is an income tax bill which meddles with the education law of the state. It is essentially a back-door effort to increase the compulsory attendance age and impose tax penalties on families whose children don't meet the new educational definition of "dependent." This legislation would put the Department of Revenue in the business of determining which children are in compliance with the compulsory attendance law.

HOME SCHOOL LEGAL DEFENSE ASSOCIATION

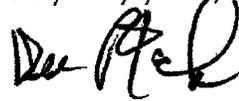
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We maintain that whether a child is a dependent should not be determined by school attendance. As the current law provides, a child should be a qualifying dependent based on the extent of support provided by the child's parents or guardians.

Passage of this legislation would adversely affect the freedom that families now have to decide what is in the best interest of a child between the ages of 16 and 19. Some of these young people who are not academically inclined will benefit more from vocational or other valuable work experience than from being forced to sit in a classroom. If House Bill 247 passes, parents of these children will have to choose between forcing them to remain in school in order to claim them as dependents and forfeiting the income tax deduction so that their children may pursue interests suited to their abilities. This is a choice that families should not have to make.

For the foregoing reasons, we ask the House Taxation Committee to vote against House Bill 247.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dewitt T. Black, III". The signature is written in a cursive style with a large, prominent "D" at the beginning.

Dewitt T. Black, III

DTB:etk

cc: Members of House Taxation Committee
Mr. Steve White
Montana Coalition of Home Educators

Testimony of Steve White In Opposition of HB 247

Mr. Chairperson, members of the House Taxation Committee, my name is Steve White. I reside in Bozeman and am representing the Montana Coalition of Home Educators; a statewide organization composed of homeschooling families dedicated to the education of their children.

I am testifying today in opposition to HB 247.

Passage of HB247 Adversely Affects Parents of Non-Public Students

All children in Montana from the ages 7-16 are under the compulsory attendance laws. Homeschool and private school students are exempted from compulsory attendance in public schools per 20-5-109 MCA. Supreme Court decisions support a parent's right to direct the education of their children, as guaranteed by the 14th Amendment to the U.S. Constitution (Pierce v. Society of Sisters and Wisconsin v. Yoder).

Presently all families that are home educating their children are required to notify the county superintendent annually until the child reaches 16 (20-5-109(5) MCA).

A significant change in law with the passage of this bill is the new language in Section 1: "**any other program that leads to a high school diploma or its equivalent**". This language, broadly interpreted, could require some type of achievement test to prove completion. This is in direct conflict with another section of Montana law; 20-5-111 MCA (the parent is solely responsible for the evaluation of the home school instruction).

Conflicts with current compulsory attendance law

Presently the compulsory attendance law in Montana does not extend beyond 16. This bill is in direct conflict with 20-5-102 MCA. And if children ages 7-16 are not in an instructional program per Montana law, then they are truant – and subject to truancy laws. HB247 attempts to modify the upper age to 18.

Enforcement of New Law

There also could arise a problem is the enforcement agency's (Dept of Revenue) interpretation of 20-5-109 MCA. Presently Montana law connects non-public

schools with the county superintendent of schools (20-5-109 MCA) – not the Department of Revenue. The passage of HB247 would require DOR to collect information from taxpaying families, and to evaluate attendance and conformance with Montana's education laws. This will ultimately create conflict and confusion for both the families and the county superintendent's office.

Revised definition of 'dependent'

Present law is very clear on the definition of a dependent for tax purposes. Other titles in Montana law also use a similar definition as Title 15. To strip someone of a dependent status based upon enrollment status in schools, translates to an expansion of government power that could easily create other modifications to exemption status. And further, is the Department of Revenue prepared to manage an appeal process related to their 'dependent' decisions?

Montana Dropouts

Montana graduation rate is presently 81%. The solution to improving graduation rates is not as simple as simply raising the compulsory attendance age. Changes are needed in our public school system to attract students to stay.

This is not much different than in the private sector for a business to try and increase retail sales by locking customers in the store until they buy something. The solution is to improve the product to increase the demand for it – thus an increase in sales.

Conclusion

Montana's public school, private school and homeschooling families will not benefit from the passage of this bill.

The solution to increasing graduation rates is not to expand government by adding truancy responsibilities to the Department of Revenue.

Passing HB247 equates to giving up on Montana's public school system. Public schools should examine their programs. Successful education programs should focus on new ways to demonstrate excellence. There are a number of opportunities to explore, such as charter schools, distant learning, rewarding successful teachers, alternative schools, etc.

We ask that you oppose HB 247.