

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1178

2007 HOUSE EDUCATION

HB 1178

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1178

## House Education Committee

Check here for Conference Committee

Hearing Date: **16 January 2007**

Recorder Job Number: **1169 and 1172**

Committee Clerk Signature

*Jan Priddle*

### Minutes:

**Representative David Monson, District 10, introduced HB 1178.** I introduced the bill on behalf of constituents at Walhalla, Neche and Pembina school districts. They ran into a snag through no fault of their own. This money was appropriated in 2005 for the North Border school district. It seems everything was in place, they met all the requirements, and they did everything they could. At the last minute a group of people up there decided they wanted to start their own school. Another school up there closed and they had some buildings available to auction. These people bought the buildings moved them, and started their own school. That dropped the number of kids from what North Border was planning on having below the 520 to about 485. There were about 50 students that went to the private school. That's how they fell below the amount of students needed. They began the process thinking they would qualify and everything would have been fine had this group of people not started this private school.

**Representative Mueller:** What levels did the private school entail? K-8? K-12?

**Representative Monson:** I think K-8 but please ask the superintendents that are here.

**Tom Decker, DPI,** testified in favor of the bill. **(Testimony Attached.)**

**Representative Mueller:** I'm curious to know about starting a new school that seems to be at the heart of this issue. How do you go about doing that these days? The department has no approval except to make them follow the requirements for private parochial type schools.

**Decker:** This is a religious sect that started their own private school. We do approve private schools. They need to be approved.

**Don Piper, Professor Emeritus of Educational Leadership at UND** and also helps communities do organization plans, testified in favor of the bill. I worked with Neche, Pembina and Walhalla throughout the 2003-04 to prepare for their reorganization. That plan passed overwhelmingly by the voters in the district. **(Testimony Attached.)** Throughout all the proceedings we looked at census information, DPI cohort survival system, etc., and everything we had said they would receive the bonus. In May or June in the year that the reorganization was to begin all the planning was done, the staff was hired and everything was set to go. The Brethren are a very conservative religious group pretty much centered in Neche and Pembina school districts in NE North Dakota. They are a close knit, tightly controlled religious group who believe, among other things, that our modern culture is corrupting their way of life and their students. They have attended Neche and Pembina schools for years and years and the districts have tried to accommodate them. In summer, this group purchased two buildings and moved them across the river to St Vincent MN. MN is much more lenient about private schools. The Brethren would not have been able to start a school in ND, but they did in MN. They have a high school and an elementary school. That is what happened. So North Borders lost about 50 students and that caused them to fall below the 520 needed. They clearly complied with the intent of the law.

**Joe Defoe, supt of North Border School District,** testified in favor of the bill. The Brethren have been in our area for many, many years. Recently their laws have become much stricter

as to what they can do in public and therefore they decided they would like to have their own school. We met with them many times and to discuss their demands. They wanted us to send over teachers and also wanted to use our principal in name. They have a headmaster who spends a few hours a day in school and he wanted to do the discipline. They wanted to use their own curriculum that came out of Detroit MI. They wanted to take vocational classes but they wanted a separate entrance to come into the school and they wanted separate classrooms for their students. The demands became more and more and when we could not meet their demands, they moved the buildings across the river to St Vincent MN. There are still K - 6 students that go to school in Neche.

**Representative Hunskor:** As I understand you the demands of the Brethren have been escalating through the years.

**Defoe:** Yes, they didn't want to use computers so we had them use typewriters. They get their lunch and go to another room by themselves. The demands have been escalating through the years.

**Vice Chairman Meier:** How many children still go to your schools that are members of the Brethren? Are you concerned about losing those? At what time frame did they start their new school?

**Defoe:** We have about 15 -18 in K - 6. We thought we would lose them but they decided to keep them there through 6<sup>th</sup> grade. Before we met with our board we discussed if they would stay in our district. Some of the Pembina students moved to St Vincent. They are not consistent in what they do as a couple of families kept their students in Pembina.

**Representative Herbel:** When you did your reorganizing were you eligible for the bonus?

**Defoe:** Yes.

**Morgan Husset, former supt of Walhalla**, and was involved in restructuring the district to accommodate the Brethren. It got to the point where our educational principles could no longer be changed in order to meet the laws of ND and the educational requirements. We parted amicably. We did meet the intent of reorganization. We met the numbers. It wasn't until the summer of 2005 when things fell apart.

**Representative Haas:** Did the reorganization take place July of 05?

**Husset:** That's correct.

**Representative Hanson:** Tom Decker, if we have another reorganization plan that comes through is 485 going to be the minimum or are we going back to 520.

**Decker:** There is no more law. It was repealed. These people qualified under the law and there was a problem with numbers and that's what this bill is about.

**Representative Mueller:** Tell me where we are fixing the problem in this bill

**Decker:** You give us the authority to make the payment.

**Representative Haas:** This is new legislation because we repealed the old one.

**Decker:** If you are not comfortable with the way it is written we can have Anita Thomas come down and go over it.

**Vice Chairman Meier** closed the hearing.

**At a later time on the same date, Chairman Kelsch again opened discussion on HB 1178.**

**Representative Haas:** I move a do pass.

**Representative Johnson:** I second.

**Representative Mueller:** I agree with the concept. These people got into a situation beyond their control and we need to honor our commitment if we can. Would there be any other groups out there that maybe didn't qualify while this was going but would like to have qualified

with the 485 students. What does this bill say to that group of people? If they missed the process because they didn't quite have the critical mass of students. Does this bill open up the door for them?

**Representative Johnson:** This was the only one in process when we repealed.

**Chairman Kelsch:** That is correct. They would be the only reorganization that this would impact. If there would have been an issue with another district, they would have been in here already.

**A roll call vote was taken: Yea: 12, Nay: 0, Absent: 1 (Herbel)**

**HB 1178 passed.**

Date: 16 Jan 07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1178

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken No Pass

Motion Made By Haas Seconded By Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep Hanson	✓	
V Chairman Meier	✓		Rep Hunskor	✓	
Rep Haas	✓		Rep Mueller	✓	
Rep Herbel		✓	Rep Myxter	✓	
Rep Johnson	✓		Rep Solberg	✓	
Rep Karls	✓				
Rep Sukat	✓				
Rep Wall	✓				

Total Yes 12 No 0

Absent 1 Absent Herbel

Floor Assignment Wall

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1178: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS**  
**(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1178 was placed on the**  
**Eleventh order on the calendar.**

2007 SENATE EDUCATION

HB 1178

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1178

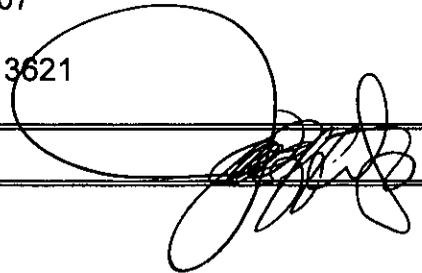
Senate Education Committee

Check here for Conference Committee

Hearing Date: February 21, 2007

Recorder Job Number: 3361, 3621

Committee Clerk Signature



Minutes:

Chairman Freborg opened the hearing on HB 1178, a bill relating to the payment of school district reorganization bonuses. Senator Taylor was absent.

Representative Monson introduced the bill. This bill is to fix a problem with a school district reorganization bonus that occurred during the last biennium and applies to North Border school district. The money was set aside for North Border during the last biennium when the reorganization bonuses were discontinued by the legislature but money for the bonuses was set aside for those schools that were already in the process of reorganization. North Border completed the reorganization on time and met the requirements. When the dust settled, they did not have enough students enrolled in the fall. The Brethren, a sect from the area, elected to start their own school instead of sending their children to North Border. Up until July they were expected to send their children to North Border but changed their mind at the last minute. Senator Olafson testified in favor of the bill. He lives in the area. The extenuating circumstances have put them in a place where they did not expect to be in terms of the reorganization bonus.

Dr. Don Piper testified in favor of the bill. (Written testimony attached) The Brethren are a close knit, conservative religious group centered in Pembina County in North Dakota. They believe

our modern culture is corrupting their way of life and their children. Their children cannot watch TV or movies, they cannot use computers, they cannot eat school lunch with the other children. They must enter school through a different door than the other children. Their female teachers must wear dresses, not pants. This provides a real challenge to the schools and they have been in the Neche and Pembina schools for a long time. The Brethren families could not participate in the reorganization meetings but several personally told Dr. Piper they thought he was on the right track.

Tom Decker, Department of Public Instruction, testified in favor of the bill. He distributed three handouts. North Border operated in good faith and would have qualified for the bonus.

Attachment A shows the history of bonus payments. Attachment B is the bonus spread sheet that shows the status of the North Border bonus before the last session, they were going to qualify for a full \$500,000 bonus. Attachment C is the way things look today with the smaller enrollment, their calculation is they would be eligible for \$487,000. Department of Public Instruction has the money, it has been appropriated, they did not have the authority to make the payment when the enrollment fell below the 5.5 threshold.

Senator Flakoll said it is now \$487,000 rather than \$500,000?

Mr. Decker said if we follow the old formula that is where the bonus would be. The amount isn't in the bill. There could be approval of \$500,000 as originally mentioned.

Senator Flakoll asked where we have the discretion to do that.

Mr. Decker said the calculation in the bill is the same as in law before it was appealed, that would be \$487,000.

Senator Flakoll said the first one was paid out, the remaining portion is \$487,000 to fully execute what we intended to do?

Mr. Decker said Department of Public Instruction knew they were close to the enrollment threshold when the time came to pay out the bonus.

Senator Flakoll asked if anyone else would qualify under this bill, Steele – Dawson?

Mr. Decker said this group was under the old law, we are not reinstating the bonus, there is no interest in doing that.

Senator Flakoll asked what North Border's carryover percentage is.

Mr. Decker looked at the finance facts booklet and could not immediately find North Border.

Senator Bakke asked if Mohall Sherwood did not qualify, referring to attachment A.

Mr. Decker said yes they did, but they did not request an advance on the funds.

Senator Gary Lee asked if we are going to work with the \$487,000 figure.

Mr. Decker said the appropriation was for \$500,000.

Senator Gary Lee said the language of the law is the latest enrollment figures.

Mr. Decker said he can double check.

Joel Defoe, Superintendent of the North Border school district testified in favor of the bill. They did not foresee the Brethren pulling their children out. The Brethren have lived in his area all his life.

Morgan Huisett, former superintendent of Walhalla, testified in favor of the bill. The Brethren were present during the reorganization meetings and they had many meetings with their representatives. They had separate but comparable programming for their students. They became more demanding as time went on and would have required excessive entanglement of their school in religious matters. The doors are open for future negotiations.

Chairman Freborg closed the hearing on HB 1178.

Senator Flakoll moved a Do Pass on HB 1178, seconded by Senator Gary Lee.

Senator Bakke said since she is new to the committee she wants to know if it was promised to them.

Chairman Freborg said if they met the criteria, it was promised to them. But they don't meet the criteria now so we are going to fudge a little bit and give it to them anyway.

Senator Bakke said no one else came this close to not meeting it?

Chairman Freborg said that's about right.

Senator Bakke said she will depend on the rest of the committee.

Chairman Freborg said we all believe when they started the process, they were sure they qualified until almost the end.

Senator Flakoll said he found in the school finance facts that North Border had a 16% ending balance which is not objectionable to him.

The motion passed 4 - 0 - 1. Senator Gary Lee will carry the bill.

Date: 2/21/07  
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1178

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Sen. Flakoll Seconded By Sen Lee

Senators	Yes	No	Senators	Yes	No
Senator Freborg	✓		Senator Taylor	A	A
Senator Flakoll	✓		Senator Bakke	✓	
Senator Gary Lee	✓				

Total Yes 4 No 0

Absent 1

Floor Assignment Sen. Lee

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
February 21, 2007 4:13 p.m.

**Module No: SR-33-3641**  
**Carrier: G. Lee**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1178: Education Committee (Sen. Freborg, Chairman) recommends DO PASS**  
(4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1178 was placed on the  
Fourteenth order on the calendar.

2007 TESTIMONY

HB 1178

*Tom Decker  
DPI*

*HB 1178  
16 Jan 07*

Testimony on HB 1178  
House Education Committee  
January 16, 2007

House Bill 1178 seeks legislative authority to provide a reorganization bonus to the North Border School District. The North Border School District was created by the reorganization of Neche, Pembina and Walhalla into a single new district effective July 1, 2005.

During the last Legislative Session, we asked for a bonus appropriation of \$759,000 to pay bonuses to eligible school districts under the old school district bonus law. The first \$259,000 of that money was designated for Carrington-Sykeston (Attachment A) who also consolidated July 1, 2005. The bonus payment to the North Border District was due them under the old law in December 2005.

As the calculation sheet shows (Attachment B) during the 2005 Legislative Session, we anticipated North Border would be eligible for a bonus of \$542,000 except that the maximum allowed by law was \$500,000. A \$500,000 appropriation was made available.

When we began to do the calculations for the actual bonus, in the fall of 2005 after the new school district was reorganized and into its first school year, we discovered that they were not eligible to receive a bonus because their enrollment had fallen under the required 520 students. Our records show that the districts enrollment was actually 485 students.

We had no legislative authority to make a bonus payment to the district because they failed to meet the criteria. There were no provisions in the law for prorating or for any set of circumstances in which the

combination of square miles and enrollment was less than 500 square miles and 520 students.

This bill proposes to allow a payment to North Border School District of \$487,000 by our calculations (Attachment C) based upon their enrollment of 485 students. Chairperson Kelsch and members of the committee, when the money was appropriated, the North Border School District met all the requirements to receive that bonus and had no control over the fact that they fell slightly short of the required enrollment. Therefore, we recommend that you authorize the department to make a payment to the North Border School District of \$487,000.

That concludes my testimony.

### REORGANIZATION BONUS

Reorganized District	Effective Date	Amount of Bonus	Payment Due Date	Requested Advance
Mohall-Lansford-Sherwood #1	July 1, 2004	\$487,000.00	December, 2004	No
Center-Stanton #1	July 1, 2004	\$0.00	N/A	N/A
North Border #100 (Neché-Pembina-Walhalla)	July 1, 2005	\$500,000.00	December, 2005	No
Carrington #49 (Carrington-Sykeston)	July 1, 2005	\$259,000.00	December, 2005	Yes - \$30,000.00
Fordville-Lankin #5	July 1, 2005	\$0.00	N/A	N/A

2003  
Session

## School Consolidation Bonus System Sample Consolidations

CoDist	School District	Square Miles	K-12 Enrollment	Taxable Valuation	General Fund Expenditures
34027	Walhalla 27	286	300	4,504,907	2,204,179
34055	Neché 55	136	104	3,252,933	1,154,390
34001	Pembina 1	129	138	3,724,026	1,387,855

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<b>Totals</b>	551	542	11,481,866	4,746,423
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**Bonus computation:**

Limit	1,400	750		
Less largest	286	300		
	<u>265</u>	<u>242.00</u>		
Factor	3		3	Districts
Rate	50,000	1,000	50,000	
Bonus	<u>150,000</u>	<u>242,000</u>	<u>150,000</u>	

Total Bonus	542,000
Maximum Bonus	<u>500,000</u>
Total Eligible Bonus	<u><u>500,000</u></u>

Data sources: 2004 School Finance Facts

School Reorganization Bonus  
North Border 100

CoDist	School District	Square Miles	K-12 Enrollment	Taxable Valuation	General Fund Expenditures
34001	Pembina	129	154	3,698,317	1,418,851
34027	Walhalla	286	298	4,446,463	2,209,755
34055	Neche	136	86	3,241,612	1,235,124
2004-05	Totals	552	538	11,386,392	4,863,730

Must meet one to qualify:

	Square Miles	800	
	Combination square miles and enrollment	500	520
2005-06	Reorganized district	552	485

Not Eligible

Bonus computation:

	Limit	1,400	750
2005-06	Reorganized district	552	485
	Allowable for bonus calculation	552	485
	Less largest previous year	286	298
		266	187
	Factor	3	3 Districts
	Rate	50,000	1,000
	Bonus	150,000	150,000

Total Bonus	487,000
Maximum Bonus	500,000
Total Eligible Bonus	<u>13,000</u>

Data sources: 2005, 2006 School Finance Facts

HB 1178  
16 Jan 07

**North Border Reorganization Information Related to the Bonus Payment Request**  
Testimony Presented to the House Education Committee to Support HB 1178  
Dr. Don Piper (January 16, 2007)

Throughout the 2003-04 school year, Neche, Pembina, and Walhalla developed a reorganization plan to merge the three districts into one district (North Border School District) on July 1, 2005. In the election on August 10, 2004, this plan received a strong majority vote in all three districts (Neche=64.4%, Pembina=57.2%, Walhalla=80.3%).

All of the indications throughout this planning process were that the new district would fulfill all of the requirements (including the required enrollment of 520 students) to receive the reorganization bonus. Part of this assumption was based on the understanding that the Brethren would send most of their students (29 residing in the Neche district and 21 residing in the Pembina district for a total of 50 students) to either Pembina or Neche and therefore North Border would qualify for the bonus payment.

At nearly the last minute (long after the reorganization was approved and after the planning for the 2005-06 school year essentially was completed) the Brethren decided NOT to send most of their children to North Border for the 2005-06 school year. This decision, which was beyond the control of the North Border School District, resulted in North Border falling 32 students short (6%) of the 520 students required for the bonus payment to be distributed.

K-12 enrollment ordinarily required to qualify for the reorganization bonus.	520
K-12 enrollment anticipated at the beginning of the North Border reorganization planning to become effective on July 1, 2005.	540
K-12 enrollment for 2005-06 for North Border projected by DPI in January 2004. (Minimum fall enrollment required for the bonus was 520, so North Border was expected to qualify for the bonus payment in 2005-06.)	528
K-12 Brethren students residing in Neche (29) and Pembina (21) in 2005-06 with these numbers expected to increase in the next 10 years. There were good reasons to believe that most (if not all) of these students would attend North Border.	50
K-12 actual enrollment during the first year of the reorganization on 9-15-05 AFTER the Brethren decided NOT to send most of their students to North Border.	488

The major intent for requiring an enrollment of 520 or more was to insure that two or more tiny districts did not reorganize, receive the bonus payment, and still have a district too small to provide efficient and effective education. North Border's enrollment puts it in the top one-fifth of all North Dakota school districts as well as the top one-fifth of all reorganized school districts. Surely North Border has more than lived up to the intent of the bonus payment law.

**Summary of Important Points**

1. North Border was anticipating receiving the reorganization bonus payment throughout the entire planning process and had good reasons to believe that the district would qualify.
2. The 6% shortfall in student enrollments was beyond the control of the district and occurred **after** all of the reorganization votes were completed and after virtually all of the planning for the first year of the reorganization was completed.
3. The North Border reorganization clearly has fulfilled the **intent** of the bonus payment law.
4. The Legislature already has appropriated the money during the 2005 session, DPI already has "earmarked" the money for this payment, and the money still is available.

We hope that you will be able to give a strong DO PASS to HB 1178 and permit DPI to disburse the appropriate existing bonus payment monies to the North Border School District.

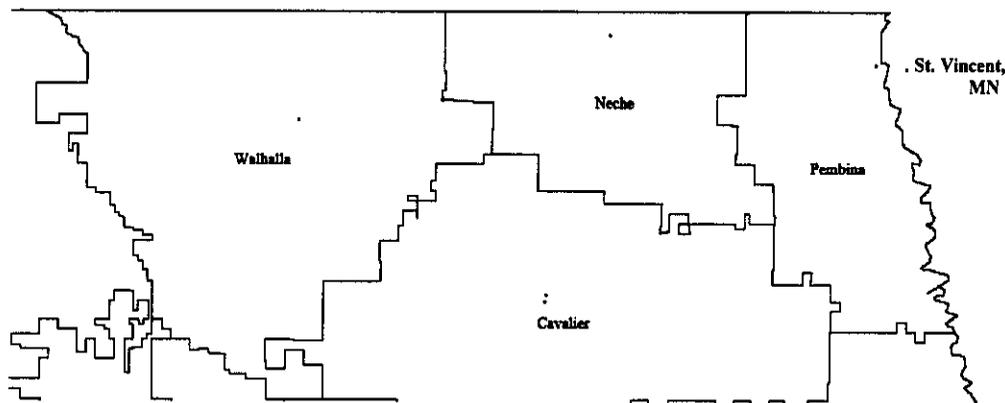
## North Border Reorganization Information Related to the Bonus Payment Request

Testimony Presented to the Senate Education Committee to **Support HB 1178**

Dr. Don Piper (February 21, 2007)

Prior to 2005, reorganization bonuses had been available to qualifying North Dakota school districts for a number of years. The 2005 North Dakota Legislature discontinued the bonuses with the understanding that those districts who already were in the process of reorganization and would complete that process by July 1, 2005, still would be eligible to receive the payments. The 2005 Legislature appropriated \$759,000 to fund the two reorganizations that were expected to qualify for the bonuses on July 1, 2005 (Carrington-Sykeston = \$259,000 and North Border = \$500,000).

Throughout the 2003-04 school year, Neche, Pembina, and Walhalla developed a reorganization plan to merge the three districts into one district (North Border School District) on July 1, 2005. In the election on August 10, 2004, this plan received a strong majority vote in all three districts (Neche = 64%, Pembina = 57%, Walhalla = 80%) and the reorganization was approved.



All of the indications throughout the two years of this planning process were that the new district would fulfill all of the requirements (including the required enrollment of 520 students) to receive the reorganization bonus. Part of this assumption was based on the understanding that the Brethren would send most of their students (29 residing in the Neche district and 21 residing in the Pembina district for a total of 50 students) to either Pembina or Neche and therefore North Border would have sufficient enrollments to qualify for the bonus payment.

At nearly the last minute (long after the reorganization was approved and after the planning for the 2005-06 school year essentially was completed) the Brethren decided NOT to send most of their children to North Border for the 2005-06 school year. Instead, they purchased part of a

closed school building; moved it to St. Vincent, Minnesota; and sent their children out of the district (and out of the state) across the river to St. Vincent, Minnesota. Even though these students continue to reside in the North Border School District, they cannot be counted as North Border students for reorganization bonus payment purposes. This decision, which was beyond the control of the North Border School District, resulted in North Border falling 35 students short (6.7%) of the 520 students ordinarily required for the bonus payment to be distributed.

K-12 enrollment ordinarily required to qualify for the reorganization bonus.	520
K-12 enrollment anticipated at the beginning of the North Border reorganization planning to become effective on July 1, 2005.	540
K-12 enrollment for 2005-06 for North Border projected by DPI in January 2004. (Minimum fall enrollment required for the bonus was 520, so North Border was expected to qualify for the bonus payment in 2005-06.)	528
K-12 Brethren students residing in Neche (29) and Pembina (21) in 2005-06 with these numbers expected to increase in the next 10 years. There were good reasons to believe that most (if not all) of these students would attend North Border.	50
K-12 actual enrollment during the first year of the reorganization on 9-15-05 AFTER the Brethren decided NOT to send most of their students to North Border.	485

The major intent for requiring a minimum enrollment of 520 was to insure that two or more tiny districts did not reorganize, receive the bonus payment, and still have a district too small to provide efficient and effective education. Even with 485 K-12 students, North Border's enrollment puts it in the top one-fifth of all North Dakota school districts. Surely North Border has more than lived up to the intent of the bonus payment law.

### **Summary of Important Points**

1. North Border was anticipating receiving the reorganization bonus payment throughout the entire planning process and had good reasons to believe that the district would qualify.
2. The 6.7% shortfall in student enrollments was beyond the control of the district and occurred **after** all of the reorganization votes were completed and **after** virtually all of the planning for the first year of the reorganization was completed.
3. The North Border reorganization clearly has fulfilled the **intent** of the bonus payment law.
4. The Legislature already has appropriated the money during the 2005 session, DPI already has "earmarked" the money for this payment, and the money still is available.

We hope that you will be able to give a strong **DO PASS** to **HB 1178** and permit DPI to disburse the appropriate existing bonus payment monies to the North Border School District.