

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

FN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1437

2001 HOUSE EDUCATION

HB 1437

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

House Education Committee

Conference Committee

Hearing Date 01-31-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		4400 to 6136
TAPE II		x	01 to 3960
Committee Clerk Signature <i>Rita Gilbertson</i>			

Minutes:Chairman Kelseh opened the hearing on HB 1437 and asked the clerk to read the title.

Rep Doseh: District 32. I come before you in support of HB 1437, I would like to hand out a proposed amendment to the House Bill. It takes out the reference to the Lord's Prayer and inserts a prayer in its place. On April 20th 1999, the country was stunned by the events in Colorado. In all 13 dead. The nation searched for answers. How could such a terrible thing happen. Today, you have the opportunity to put God back in the schools. Today our children are exposed to alcohol, drugs, sex and gays and alternative life styles, but they can't talk about GOD. Religion of any kind has been removed from our schools and our children. Even the pledge of allegiance is no longer standard in our class rooms. We have become a nation of tolerance. Today I am sure that you will hear arguments that it is a separation of church and state, the fact it is legal and constitutionally sound. Right now in North Dakota moments of silence are allowed. Many states allow prayer in their school. Every day we as legislators start our day with a prayer. Our forefathers cherished their freedom and their religious freedom, they wanted a separation of

Page 2

House Education Committee

Bill/Resolution Number HB 1437

Hearing Date 01-31-01

church and state, and they wanted to assure us that no state would dictate what that religion would be. I am sure that they never intended to remove God from our everyday life. The first amendment states, Congress will make no law, respecting the establishment of a religion or the prohibiting of the free exercise thereof. Our country was founded under the principle of One Nation Under God, every coin minted, every dollar printed, contains the words In God We Trust. The preamble of the North Dakota Constitution states, We the people of North Dakota, grateful to a mighty God, for the blessing of civil and religious freedoms, do ordain and establish this constitution. When I first to draft this bill, I struggled what prayer I would suggest being said each morning, after much thought, I thought the Lord's Prayer was the best. After much discussion with many people, it was determined that suggesting a certain prayer might cause some problems. It was suggested that the words Lord's Prayer be amended out. This would give each student the opportunity to say their own prayer each day. Is this an easy issue, certainly not, but then something worth while usually is not. In America, which is a democracy, the majority does rule. Do you ever wake up some morning and wonder what our world is coming to. I am asking for a simple one minute prayer and the pledge of allegiance. We must remember the bases that this country was founded upon. Protect it for it is our past and it will give us direction in the future. This bill has no fiscal note. It will cost the state of North Dakota nothing. If we as adults are afraid to stand up for what is right, what kind of message are we sending to our children. How can we expect our children to stand up for something that is right, if we don't. I am asking each one of you to do what is right. Support this bill and send a message to all. Members of the committee make my dream come true and vote yes on HB 1437.

Chairman Kelsch: Are there any questions for Rep Dosch, seeing none, thank you. Anyone wishing to testify in support of HB 1437.

Rep Dan Ruby: District 38. Spoke in support of HB 1437.

Chairman Kelsch: Are there any questions for Rep Ruby? Seeing none thank you. Anyone else wishing to testify in support of HB 1437.

Chuck Longdus: I am a parent from Bismarek with two children in the school district. Spoke in support of HB 1437.

Chairman Kelsch: Are there any questions, seeing none thank you. Anyone else wishing to testify in support.

Mrs Gary Zentz: from Bismarek, spoke in support of HB 1437.

Chairman Kelsch: Any questions, thank you for appearing. Anyone else wishing to appear in support of HB 1437.

Maury Millican: resident of Bismarek with three children in the school system. Spoke in support of HB 1437.

Chairman Kelsch: Are there any questions, seeing none, thank you for your testimony. Anyone else wishing to appear in support of HB 1437.

Rep Lisa Meier: spoke in support of HB 1437.

Chairman Kelsch: Anyone else wishing to speak in support of HB 1437. Anyone who wishes to appear in opposition of HB 1437.

Richard Ott: North Dakota Council of Educational Leaders. Spoke in opposition of HB 1437.

Chairman Kelsch: Are there any questions, seeing none thank you. Anyone else wishing to testify.

Page 4

House Education Committee

Bill/Resolution Number HB 1437

Hearing Date 01-31-01

Bey Nielson: North Dakota School Board Association. We are in opposition to the bill. We did work on some amendments and she gave them to the committee but was still opposed to the bill even if it were amended.

Chairman Kelsch: Are there any questions, seeing none thank you. Anyone else wishing to appear in opposition.

Doug Bauer: Director of the Civil Litigation Division of the Office of the Attorney General. Chairman Kelsch asked Mr Stenehjem to have me here so that the committee might ask any questions that they may have. As we discussed last week, in regard to the ten commandments, if a challenge is made to the bill such as this, there is likely to be a law suit against the school district. The bill does not mandate that the school district or a teacher do anything. It is very unlikely that the Office of the Attorney General would be defending this. If they do it would be on the face, meaning on constitutional issues, not defending school district or teacher. It is not appropriate to bind the state to defend this issue. There was testimony earlier that this is not establishing a religion as it does not favor one religion over the other, it does tend to favor religion over non religion. And the US Supreme Court says that the establishment clause prohibits favoring one religion over another or religion or non religion. I think that this has to be made clear. In examining the law it uses a three prong test to see if the law is constitutional.

Chairman Kelsch: Will you tell us the fundamental differences with what we currently have on law and what this law is, with the amendments.

Doug Bauer: He gave an example of his opinion from two states. Our current statute allows a moment of silence. A student at that time can do anything they want as long as it is silent. Under this bill, it would mean during that moment of silence, a child could get up and offer an oral

prayer in front of the class. Under the amendment, that prayer could be to anything or anybody. There is no limitation on this. Under the constitution you cannot prohibit religion nor can you promote it. The court may have some concerns of the bill as it is currently drafted.

Rep Mueller: There is a reference to the pledge of allegiance in the bill. Could you tell me the difference between the pledge and a spoken prayer.

Doug Bauer: The only case that I know of in regard to the pledge of allegiance is where it was mandated. The UN Supreme Court says you can not mandate.

Rep Mueller: My question is , is there a difference between those two in terms of the law.

Doug Bauer: I guess it would depend in the way it was used. I am not sure.

Rep Haas: Can you give us the reference on the current law on silent moment.

Doug Bauer: Are you referring to the statute that this amends.

Rep Haas: NO, you said that the current law allows a moment of silence, where in the statutes is that law.

Chairman Kelsch: That is the section that we are amending right here.

Rep Nottestad: The presenters of the bill said that this would not be denominational, yet the way it is worded in the amendment, a teacher could give it in their beliefs, would you comment on that.

Doug Bauer: The teacher isn't saying the prayer, the student is saying the prayer, well, it is very unclear. If the teacher is doing it, it raises constitutional issues.

Rep Thoreson: The disclaimer at the end is not of much value.

Doug Bauer: First the disclaimer of the board, the US Supreme Court has said that they are looking beyond the plain language. Second the disclaimer that this allows the student to look at

Page 6

House Education Committee

Bill/Resolution Number HB 1437

Hearing Date 01-31-01

the countries freedoms including the freedom of religion is appropriate. That has a secular purpose and that is what the courts will ask.

Chairman Kelsch: Any further questions, thank you for your information. We will close the hearing on HB 1437.



2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437 B

House Education Committee

Conference Committee

Hearing Date 1/31/01

Tape Number	Side A	Side B	Meter #
3	X		-3,351
Committee Clerk Signature <i>Robin D. Small</i>			

Minutes:

REP. R. KELSCH called the committee to order, with all members present except

REP. SOLBERG.

ACTION:

REP. BELLEW motions for an amendment, seconded by REP. HUNSKOR. Hearing no discussion, a voice vote was taken with the majority carrying it. The motion passes.

REP. HANSON states to the committee that he has a problem with the definition of the start of the school day. REP. R. KELSCH states that there is a need for a motion in order to have discussion. REP. MEIER then motions for a DO PASS AS AMENDED, seconded by

REP. BELLEW.

General discussion.

The roll call vote was taken with 4 YES, 10 NO and 1 ABSENT AND NOT VOTING. The

motion falls. REP. THORESON then motions for a DO NOT PASS AS AMENDED, seconded

Page 2

House Education Committee

Bill/Resolution Number HB 1437 B

Hearing Date 1/31/01

by REP. BRUSEGAARD. Seeing no discussion the clerk will call the roll. The roll call vote is taken with 10 YES, 4 NO and 1 ABSENT AND NOT VOTING. The motion carries. The CARRIER of the bill is REP. BRUSEGAARD.

HB 1437: DO NOT PASS AS AMENDED 10-4

CARRIER: REP. BRUSEGAARD

Date: 1/31/01  
 Roll Call Vote #: 1

**2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1437**

House House Education Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

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

Action Taken Do Pass As Amended

Motion Made By Rep. Meier Seconded By Rep. Bellew

Representatives	Yes	No	Representatives	Yes	No
Chairman-RaeAnn G. Kelsch		✓	Rep. Howard Grumbo	✓	
V. Chairman-Thomas T. Brusegaard		✓	Rep. Lyle Hanson		✓
Rep. Larry Bellew	✓		Rep. Bob Hunskor	✓	
Rep. C.B. Haas		✓	Rep. Phillip Mueller		✓
Rep. Kathy Hawken		✓	Rep. Dorvan Solberg		
Rep. Dennis E. Johnson		✓			
Rep. Lisa Meier	✓				
Rep. Jon O. Nelson		✓			
Rep. Darrell D. Nottestad		✓			
Rep. Laurel Thoreson		✓			

Total (Yes) 4 *Click here to type Yes Vote* No 10 *Click here to type No Vote*

Absent 1

Floor Assignment Click here to type Floor Assignment

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

Date: 11/31/01  
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1437

House House Education Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken Do Not Pass As Amended

Motion Made By Rep. Thoreson Seconded By Rep. Brusegaard

Representatives	Yes	No	Representatives	Yes	No
Chairman-RaeAnn G. Kelsch	✓		Rep. Howard Grumbo		✓
V. Chairman-Thomas T. Brusegaard	✓		Rep. Lyle Hanson	✓	
Rep. Larry Bellew		✓	Rep. Bob Hunsaker		✓
Rep. C.B. Haas	✓		Rep. Phillip Mueller	✓	
Rep. Kathy Hawken	✓		Rep. Dorvan Solberg		
Rep. Dennis E. Johnson	✓				
Rep. Lisa Meler		✓			
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				

Total (Yes) 10 *Click here to type Yes Vote* No 4 *Click here to type No Vote*

Absent 1

Floor Assignment *Click here to type Floor Assignment* Rep. Brusegaard

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

**REPORT OF STANDING COMMITTEE**

**HB 1437: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (10 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1437 was placed on the Sixth order on the calendar.**

Page 1, line 2, after "silence" insert ", the recitation of prayers, and the pledge of allegiance"

Page 1, line 6, after "silence" insert "- Recitation of prayer - Pledge of allegiance"

Page 1, line 8, overstrike "A" and insert immediately thereafter "In addition, the"

Page 1, line 10, replace "the Lord's" with "a" and after "prayer" insert "by a teacher or student"

Page 1, line 11, after "board" insert "or the teacher"

Page 1, line 12, replace "The exercises must be conducted in a manner" with ", rather" and replace "allows" with "the exercises allow"

Renumber accordingly

