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ROLL NUMBER

DESCRIPTION

1198

2007 HOUSE EDUCATION

HB 1198

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1198

House Education Committee

Check here for Conference Committee

Hearing Date: 16 January 2007

Recorder Job Number: 1170 and 1174

Committee Clerk Signature



Minutes:

Tom Decker, DPI, introduced the bill. **(Testimony Attached.)** This bill prohibits a group of elementary districts to reorganize and form a new K-12 district. A fundamental policy issue needs to be addressed and made explicitly in state law. When land moves from one school district to another, the people who live on that land should either be attending school in the district to which they are being attached or intend to do so.

Representative Herbel: When these reorganizations take place is it frequently or seldom that there is a problem. Is it a tax issue?

Decker: It is simply that students want to go to a neighboring district other than the one they were reorganized to. Their loyalty and affiliation is to a certain district. We have been pretty adamant at DPI about proportional distribution. That is if a piece of a district is left out of the reorganization, we've been adamant about the proportional distribution of taxable value to students. I think we have made it clear that this is not to be thought of as a tax dodge.

Representative Haas: If we pass this bill it's not going to correct the situation at Spiritwood. Is it?

Decker: The reorganization there has been through all the appropriate processes and they will become a newly reorganized district next July 1. The only problem now is annexations out of the district. Our annexation law requires that there has to be school aged child who will

attend school on any parcel proposed for annexation. In Spiritwood there are lots of students that attend school in Jamestown so there is a potential for significant annexation. Here's the case where you have to wonder about the unintended consequences of the reorganization law. Spiritwood is the richest in taxable valuation. The combination of the 3 districts that reorganized here will have a taxable valuation per student of \$54.0. The state average is about \$15.0 to \$18.0. Instead of this very wealthy district paying tuition to send their students to Jamestown, now they are open enrolling. The only way to address this is to annex land from the Spiritwood district to Jamestown and attach their land. There is a huge disincentive because there is a huge difference in taxes.

Representative Haas: So essentially that reorganization is a done deal and for the foreseeable future, those students are going to continue to go to Jamestown without any tuition payment.

Decker: That's accurate. We have a couple of those kinds of circumstances where large numbers of students are open enrolled out low population districts to the larger cities.

Representative Johnson: When lands are being annexed to other school districts, I've seen some strange configurations. What's required as far as acreage or contiguity?

Decker: Let me talk about annexation. It is not used much anymore. In an annexation the state board has been approving or disapproving based on if the school district they now belong to can provide better services. In many cases annexation these days is in situation where students are open enrolled. Proportionate taxable valuation is involved. Sometimes parents just want to get their land attached to a district. The needs of the students needs to be honored and just about usually has been. When you are bringing land out of a school district it has to be contiguous to the receiving school district. You can't look at a state map of school districts and think the State Board has been worried about strait lines. There are some limits

as to what extremes they will go. They have disapproved some annexations that reached four or five miles down a series of quarter sections to pick up a quarter section so that someone could get into a district. There are some limits. It does have to be contiguous.

Representative Johnson: Most recently I've seen maps where they run along edges of fields or a right of way to get to a quarter section to bring it in. Is there a minimum amount of land?

Decker: I don't think I've been involved in discussions where we talk about a minimum amount of land.

Representative Mueller: I think we are hearing a debatable topic. I'm not sure how the bill before us speaks to the issues you mention. Can you clear that up?

Decker: This makes a pretty narrow change in the reorganization law. There are a series of bills coming that my testimony gives background for.

Representative Hanson: I think I have an answer for Representative Johnson. In the Jamestown area we have an area where we have 4 40s.

Representative Johnson: That may be a discussion for another day.

Chairman Kelsch closed the hearing of HB 1198.

At a later time on the same day, **Chairman Kelsch** again opened discussion on this bill.

She said there were several bills that have been drafted to address some of the inequities that have occurred in some of the reorganizations specifically related to K – 8 issues. In the Minot reorganization they stand to lose about \$450.0 because of not receiving tuition into the school district. These are becoming issues as to where these kids actually want to be going to school. We need to be looking at what is the best education long term. There is a bill that comes in that says tuition will follow the student. That will affect school districts that open

enroll. We expect bills 1190, 1260, 1277 and 1281 to deal with issues that the commission did not address. I will try to schedule these at one time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1198

House Education Committee

Check here for Conference Committee

Hearing Date: **6 February 2007**

Recorder Job Number: **2925**

Committee Clerk Signature 

Minutes:

Chairman Kelsch: Opened discussion of HB 1198

Representative Haas: I move Do Pass

Representative Herbel: I second.

Representative Haas: I just want to say this bill is very important from the standpoint of the legislature providing some guidance for how reorganization is going to take place. If we don't we simply will continue to have a fragmentation of our delivery system. I think it's an excellent bill to help in that process.

Representative Mueller: I don't disagree entirely with Representative Haas. My concern is in part has to do with what the future holds. None of know what that is. Could we not have an area that would develop that could involve some elementary schools that could end up being significant in size to do a high school district. I'm not sure where that can happen; but I'm not sure that can't happen some where. We can change this in two years I suppose. I have some reservations about limiting the future.

Chairman Kelsch: I have thought about this. To be perfectly honest I cannot come up with a single area that has enough elementary school districts and enough students in those that could come together and put together a long-standing high school district. Perhaps there could come together in former high schools; however it would probably not hold up more than

a couple of years. That's another issue we have often talked about with reorganizations is that

we want to see reorganizations that are meaningful and viable and serve a purpose in the future not just have students that come together for the sake of coming together and perhaps even building buildings and then those buildings stand empty in a few years.

Representative Mueller: I don't disagree at all with the future as two years takes us out. I don't think there's any doubt about what you said. But, once it's on the books, it takes an effort to get laws like this off. The only potentials we have are around Bismarck, Minot and places like that and they ought to be part of those districts. I'd love to see the case where the Minot district is so big they don't want any more and a new high school district has to form. This stops that.

Representative Herbel: I understand Representative Mueller's concern but I look at it a different way. If it's around a city like Bismarck or Minot and they are six miles away I don't see the need to locate another high school when there is one 15 minutes away. All we are doing is fragmenting what we can offer. I think we are better off spending money to educate kids than to try to keep schools alive with foundation aid programs for perhaps only be 10 kids. This could prohibit that from happening and I'm not so sure it isn't a good idea.

Representative Mueller: Have we had this happen in recent times?

Representative Haas: No, but we don't want it to happen.

Representative Hanson: Has there been talk of around Minot high school with those three elementary districts they have.

Chairman Kelsch: They have been talking about it.

Representative Herbel: With the projections for declining enrollment for 10 – 15 years down the road, I really don't see where this should happen.

A roll call vote was taken: Yes: 11, No: 1, Absent: 1 (Solberg)

Representative Haas will carry the bill.

Date: 6 Feb 07

Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1198

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken also Pass

Motion Made By Haas

Seconded By Herbel

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 Sukut	✓				
Rep Wall	✓				

Total Yes 11 No 1

Absent 1 (Solberg)

Floor Assignment Haas

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

REPORT OF STANDING COMMITTEE (410)
February 6, 2007 1:16 p.m.

Module No: HR-25-2260
Carrier: Haas
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1198: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS
(11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1198 was placed on the
Eleventh order on the calendar.

2007 SENATE EDUCATION

HB 1198

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1198

Senate Education Committee

Check here for Conference Committee

Hearing Date: February 21, 2007

Recorder Job Number: 3566, 3567

Committee Clerk Signature

Minutes:

Chairman Freborg opened the hearing on HB 1198, a bill relating to school district reorganization criteria. Senator Taylor was absent.

Tom Decker, Director of School Finance, Department of Public Instruction testified in favor of the bill. (Written testimony attached) He said his testimony also applies to a series of bills that the committee will hear in the coming weeks.

Senator Flakoll said the testimony did not align with the bill. Does part of it relate to other bills?

Mr. Decker said he made the point at the beginning that part of his testimony deals with the bigger policy issue that will relate to other bills that will be before the committee in the next few weeks.

Senator Flakoll said the 700 students around Minot are prohibited from forming a high school district?

Mr. Decker said yes, they all send at least 1/3 of their students to another district for high school and some for junior high. Chances are very good they would continue to go to those districts. Not to pick on Spirit Wood, North Central, Wimbledon, Courtenay district but as an example, what was created is a new school district with the highest taxable valuation of any school district in the state, \$54,000 per student. A very large percent of the students in the

western part of that district will continue to go to Jamestown, that is their community, their center of economic activity. We are creating more and more situations where the citizens of a school district can't vote and don't pay taxes in the district where their students attend. It creates problems and misalignments that are avoidable and as a matter of policy we should try to avoid them.

Senator Bakke said this legislation assumes we are never going to see people coming back to the state, that we will see growth in the state. What if suddenly we see massive growth in the small town area, they can't open an elementary school or a high school?

Mr. Decker said the law now prevents the creation of new K-8 districts. They would need to dissolve and attach to a K12 district.

Senator Bakke said we are assuming people will never come back.

Mr. Decker said it is not an issue. We are talking about the creation of administrative units. They can open a school wherever they see the need, just not a new district.

Senator Gary Lee asked if this will force the 700 kids around Minot to go to Minot?

Mr. Decker said they would have to dissolve and attach to the district where they attend or where their parents want them to attend. It is likely the elementary school would stay open. It is a question of whether they are organized into a new administrative unit or not. The key issue is where their high school students go to high school. If that district goes out of business, the land should be attached to the place where those kids go to high school or multiple places if that is the case.

Senator Gary Lee asked if he would expect the schools to stay open because of critical mass?

Mr. Decker said there has been discussion since he came to Department of Public Instruction with these K – 8 districts and about their future. He has been to a meeting of several of the districts and met with Minot this fall. Of these 500 – 600 students, 1/3 go to Minot, Minot

counts on them and receives tuition for them. It is wildly inappropriate to think of an organizational structure where they wouldn't be part of Minot if they are not K-8 districts as they are today. Yes, all three of those schools would stay open for some period of time but having that land as a part of Minot at some point would give them the opportunity to rethink where they need schools.

Chairman Freborg closed the hearing on HB 1198.

Senator Flakoll said he would prefer to wait until this afternoon on the bill.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1198

Senate Education Committee

Check here for Conference Committee

Hearing Date: February 26, 2007

Recorder Job Number: 3812

Committee Clerk Signature

Minutes:

Chairman Freborg opened the discussion on HB 1198. All members were present.

Senator Bakke said she is no longer contemplating an amendment.

Chairman Freborg said we have some very large elementary districts, one in particular. If they

were to reorganize, they would be between 500 and 600 students.

Senator Bakke said with the study resolution 4030 we passed, do we want to form the criteria before we do the study?

Chairman Freborg said it might be critical that very soon we take care of lines 10 and 11.

Senator Bakke said when Senator Freborg mentioned the large elementary districts, was he thinking they would need a high school?

Chairman Freborg said he wondered if we want to set a number of students on an elementary reorganization so that it would be possible with a certain number of students.

Senator Flakoll said to offer a reference point, we could on line 11, after the word district, say with a combined enrollment of under 400 students. It might be worth visiting about.

Senator Bakke said if there is a combined reorganized district and even with the 400 language you could have 1/3 of the students going to one high school and 1/3 to another because they would have to go to high schools outside their district.

Senator Flakoll said his interpretation of this would be if the graded elementaries had a combined enrollment of more than 400 that they could have one high school district which means K-12. If they are above the magic number, they can reorganize. Is there some geographical advantage to allowing them to not have to attach to a larger district or is this the high school district if they don't want to. There are a number of cases where the receiving district doesn't want them either.

Senator Taylor said those would be the concerns he would have, we would tie the hands of a group of elementary districts who, for good reasons and maybe a good volume of students, might want to retain the education that they have in their elementaries. There are a lot of districts where they are paying tuition into a high school that needs the students and counts on them and it is the best for both parties. How we come up with that number he would be interested to know.

Senator Gary Lee said he doesn't know the magic number or if there should be one. We are talking about only those three districts that happen to be around Minot. You could add up the rest of them around the state and they may not add up to that number.

Senator Flakoll said four sessions ago Tom Decker said we need 75 students in a high school for it to be a viable district. With the proposed decline in enrollment numbers, we don't want to establish a district and then have them dissolve in 5 or 7 years.

Chairman Freborg said there is a good chance that if we allowed it, they wouldn't take up the option anyway. If there is a system with 500 – 600 students and in the case we are talking about, the receiving district really doesn't want them, at least in the past they have not.

Senator Bakke said what if there is a boom in a small area and they need an elementary school, are we going to discourage that, here they are saying they can't create new elementary systems as well.

Senator Taylor said we talked about 400, would 300 be feasible?

Chairman Freborg said we are still talking about only one situation.

Senator Gary Lee asked if this has occurred recently and that is why this is here.

Chairman Freborg said they are anticipating several situations, one in particular, 3 districts with a total combined enrollment of less than a dozen students. Three separate districts went to one of the schools to fulfill the requirement that they had to have school in that district to remain open, they had music and physical education in the home district. This is to prevent three or four districts from reorganizing into one very small elementary district. The last two lines would prevent any situation from becoming a high school district. The districts were deemed to be legal because they did offer music and physical education to their two students in their own district.

Senator Flakoll said if we have 300 students and have a 20% attrition rate in 10 years we would be down to 240 students which would be 80 students in high school. The shelf life might be only 11 years. 350 might be better. In the case of the schools around the Minot area, those could grow rather than decline.

Senator Bakke asked why do we not want a new high school, even if they only have 200 kids.

Chairman Freborg said over the years, some districts that were high school districts, built new schools and long before the bonds were paid off, they were no longer a viable system. We certainly don't want to start a situation and build new high schools to have them dissolve or reorganize within 10 or 15 years. What makes it even more interesting is the receiving district, when they reorganize, is responsible to pay off the bonds. What is even more interesting, the district that is reorganizing is not responsible to pay off the bonds of the receiving district. That may have changed but he doesn't think so.

Senator Flakoll moved an amendment where on page 1, line 11 after the word district insert with a combined enrollment under 360 students, seconded by Senator Bakke.

Senator Taylor said when he sees things like this in code he thinks we should just make it 400, its arbitrary.

Senator Flakoll said it would guarantee a scenario where there is a 20% attrition rate in 10 years, it would at least buy us 12 -1 5 years viability for that district.

Senator Gary Lee asked if a district with 370 students would be able to become a high school district where they couldn't now?

Senator Flakoll said that would be more of an Anita question but he thinks we are talking about reorganization here so that may preclude them from being a high school district.

Senator Taylor said he is looking for the 370 students on the list.

Senator Gary Lee said Lewis and Clark.

Senator Taylor said they are a high school district.

Senator Taylor said there is some reasoning behind the number. We can justify it.

The motion passed 4-1.

Chairman Freborg said we can change the number in conference committee if necessary.

Senator Flakoll moved a Do Pass As Amended on HB 1198, seconded by Senator Taylor.

The motion passed 4 – 1. Senator Taylor will carry the bill.

70314.0101
Title.0200

Adopted by the Education Committee
February 26, 2007

JJ
2-26-07

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1198

Page 1, line 11, after the second "district" insert "with a combined enrollment of under three hundred sixty students"

Renumber accordingly

Date: 2/26/07
Roll Call Vote #: /

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1198

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment Below

Motion Made By Sen. Flakoll

Seconded By Sen. Bakke

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

Total Yes 4 No 1

Absent 0

Floor Assignment _____

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

*pg. 1 line 11 after 2nd district insert:
with a combined enrollment under
360 students*

Date: 2/26/07
 Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1198

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass As Amended

Motion Made By Sen. Flakoll Seconded By Sen Taylor

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

Total Yes 4 No 1

Absent 0

Floor Assignment Sen. Taylor

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

REPORT OF STANDING COMMITTEE

HB 1198: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1198 was placed on the Sixth order on the calendar.

Page 1, line 11, after the second "district" insert "with a combined enrollment of under three hundred sixty students"

Renumber accordingly

2007 HOUSE EDUCATION

CONFERENCE COMMITTEE

HB 1198

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1198

House Education Committee

Check here for Conference Committee

Hearing Date: 4 April 2007

Recorder Job Number: 5728

Committee Clerk Signature

Jan Prindle

Minutes:

Members in attendance: Chairman Haas, Representatives Sukat and Hanson, Senators G. Lee, Flakoll and Taylor.

Chairman Haas: It's pretty clear what the Senate did to the bill. Would someone one from the Senate give the rationale?

Senator Flakoll: What the majority of the committee felt was this is a Minot area situation that could happen. None of the others have the kind of critical mass to pull this off. There is a possibility that some of the small to medium sized graded elementary schools in and around that area could reorganize and form a pretty viable district. The 360 number is probably a bit of a dart throw. That's about 30 students per class and we talked about a certain critical mass in high school that is required to make it viable school. This would put about 120 students in high school. We felt that if they can pull that together, and they are in close proximity in ND terms, maybe that would be a good option. We sometimes assume that Minot or other schools would be jumping to have them and I don't know that is always the case. It could happen in other areas and I don't think we have ruled that out but I think the Minot situation is really what prompted a small modification to this. We set the threshold up at a reasonable level that certainly 5 districts of 20 students could reach. For 4 or 5 struggling school districts to get together and form one struggling school district of 125 isn't always good public policy

either. The education committee felt you needed a certain critical mass to be functional and functional for a long period of time. I think you could argue, if you went back to the Minot situation, that some of those are in a area where one would project some notable growth. The taxable valuation went up 45% this last year because of a large blue shopping center that went in to that particular school district. I think some of these are going to be magnets for people that want to have some services that are afforded in larger communities that want that kind of living situation where they can live on a ½ acre of land or something of that nature. That generally summarizes what prompted us to put that exclusion in there.

Representative Hanson: Do you have the enrollment numbers of those elementary schools around Minot?

Chairman Haas: The numbers I have are: Eureka—10, South Prairie—141, Bell—157, Nedrose—224. These are K-8.

Representative Hanson: I talked to the superintendent from Minot yesterday. He said they had visited with Bell and Bell was considering going to Surrey, but would probably change their mind and go to Minot. I don't know if that's going to happen or not. They had agreed to run a bus service into Minot for them.

Senator Taylor: Some of us didn't even know if the bill needed to be there in terms in of the Legislature stepping in front of districts that can make their own decision on a viable high school option. Knowing there is a situation where some of these elementary schools would like to join a high school district or one neighboring to them, there is going to be a lot of negotiation and they are going to justify everything with their own taxpayers. That's a personal feeling and there were some on the committee that thought we were not sure this is a place the Legislature needed to step in to it.

Representative Sukut: With this are we perhaps encouraging some of these small districts to do this which is not exactly what I would think we would want to be doing—trying to encourage some of these smaller districts to become a high school. I'm just wondering if they would look at it in terms of saying we are encouraging them to consider becoming a high school. I would rather see them try to attach themselves to an existing high school rather than pursue this avenue.

Representative Hanson: Representative Sukut, do you have the same situation in Williston in SD 8, how many schools are involved there? What kind of population do they have?

Representative Sukat: I believe there are four different schools involved. If I would venture a guess, I would say maybe 100 kids. Do you have those numbers, Tom (Decker)?

Decker: 208.

Senator G. Lee: Just as an observation, the numbers you gave us for those four around Minot is 532 kids and if they would happen to come together, that would probably be one of the larger districts in the state.

Chairman Haas: From my perspective and I think from the perspective of the House Education Committee, this would be a significant departure from an unwritten policy that we have had over the last number of Legislative sessions where we said to school districts we want all land in a high school district. We never have been able to get that passed through the Legislature, but we have had other legislation that has encouraged consolidation in to viable sized units. I think the thrust of the Legislature in the past, at least from the House Education Committee's standpoint, has been that we should not be encouraging this kind of thing. Even the Minot school district is having declining enrollment and I think they even have had to close one elementary school. Why would we want to encourage this type of activity when those students could easily be absorbed by the Minot School District? That doesn't

