

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

1277

2007 HOUSE EDUCATION

HB 1277

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1277

### House Education Committee

Check here for Conference Committee

Hearing Date: **5 February 07**

Recorder Job Number: **2791**

Committee Clerk Signature

*Jan Prindle*

Minutes:

**Tom Decker, DPI, introduced the bill. (Testimony Attached.)**

**Representative Johnson:** Are private school students included in this.

**Decker:** It really gets down to who is going to attend public school. If a family has a history of going to private school, it seems inappropriate to take them in account for this.

**Representative Herbel:** When North Borders did their reorganization and the Brothers moved their kids out, would that have any impact on this?

**Decker:** As I understand the circumstances there, there was maybe some doubt as to whether those people would stay. As in all cases like this, the decision is made based on a snapshot in time. The best information was that they would be there and subsequently they made the change. This is one of those things over which that district had no control.

**Representative Mueller:** It would seem to me to do some more things to requiring dissolutions in state law rather than take care of it in this manner. Is there something we do that would entice, influence, persuade or require dissolutions in certain cases that would be better than what we are doing here?

**Decker:** The short answer to that is yes. Some k-8s have 1/3 of their students already attending other districts. Arguably, they are not candidates for reorganization. If they have 95% of their students going to the district they plan to reorganize with, there would be not

problem there. We also find big disparities in reorganizations. You find one district that could

be down to 12 students and one that is a large district. The process is designed for two

districts that are essentially equal. Yes, there are some that should be required to dissolve.

**There was no further testimony. Chairman Kelsch closed the hearing of HB 1277.**

**At a later time on the same date, discussion was opened on HB 1277.**

**Representative Mueller: I move Do Pass.**

**Vice Chairman Meier: I second**

**A voice vote was taken: Yes: 11, No: 0, Absent: 2 (Haas and Solberg)**

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1277**


### House Education Committee

Check here for Conference Committee

Hearing Date: **6 February 2007**

Recorder Job Number: **2927**

Committee Clerk Signature



Minutes:

**Representative Johnson:** The question came up on the bill we passed out yesterday— HB1277. We thought it was pretty strait forward about 20% of the resident students attend another district the home district would not be allowed to reorganize. But, what would happen, and was brought to my attention, if you have a school that has 50 students in it that's going to reorganize into another district, and if a couple of families decide to open enroll 10 students. They are 20% of that base and could stop that reorganization. I talked to Representatives Herbel and Haas and we thought we should discuss this further. I talked to Tom Decker this morning and he said, it's not in the bill but he guessed it would be okay because they have the ability in the office up there to deal with it. It's not in the language in this bill.

**Chairman Kelsch:** We can have Tom come down and talk with us about it.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1277**

### House Education Committee

Check here for Conference Committee

Hearing Date: **7 February 2007**

Recorder Job Number: **3003**

Committee Clerk Signature

*Jan Prindle*

Minutes:

**Chairman Kelsch opened discussion of HB 1277.** She had invited Tom Decker, DPI, to attend the meeting. Decker distributed a map showing the current school districts in North Dakota.

**Representative Johnson:** If you are planning a consolidation and you have 50 students and if 10 of those students open enroll to a different district that amounts to 20%. Would that stop the reorganization?

**Decker:** Yes. In circumstances like that, that district could dissolve. If 20% of their students are leaving, you should stop the reorganization. To not do that results in the kind of thing we have been talking about trying to prevent. It allows reorganization to take place that pulls in big chunks of taxable value into a newly organized district when students are going somewhere else. The effect is to deprive some other district of a significant chunk of taxable value that should have. It puts people into a situation where they cannot vote or serve on the school board and that sort of thing. The way to get around that is if an area is thinking about reorganization they need to do more long term planning. The first thing they should do is do a survey. I'll give an example. Last week I visited with five school districts who are taking up the issue of reorganization to their boards this month. They are considering becoming one district. That would be a district of 1450 square miles. There is a part in the northeast corner

of that district where students will have some hard choices to make. It's a long way either way to a school. Some might go to Carrington and if that's where they want to go school, the best time for that to happen is right up front when that reorganization planning process is going on. What we have seen too regularly lately is that we bring whole districts into a reorganization where some significant part of the district doesn't want to come in and then it's difficult for them to move.

**Chairman Kelsch:** Then they would have to open enroll to the other district?

**Decker:** Every student involved in reorganization has the choice of where they will attend when the process plays out. The students' interests are protected. We need to think of dissolutions and reorganizations as long-term changes. If we don't systematically provide for processes that insure the land gets attached to the district where the student wants to go, we are going to have large chunks of ND locked into districts where people don't feel like they belong and long running arguments about getting out, piece meal annexations, etc. We should try to avoid that. I heard another example this morning where folks felt they needed to reorganize all the land in all the districts in some area in order for them to have a tax base that would support education over the long term in that community. If 20% of the students participating in that reorganization are in fact going to go to another district; to allow that land to come into that reorganization on the argument that they need the tax base, denies the district where those students are intending to go, the tax base they need to support the education of those students.

**Mueller:** I volunteered to carry this bill and I was trying to put my information down and I was hitting walls all over the place. In the Spiritwood situation, I don't think there is any one in this room that doesn't think they should have reorganized. What this bill would do in a case like Spiritwood where more than 20% of the students went out of the district, what this would have done is prevented them from reorganization.

**Chairman Kelsch:** Or they would have needed to dissolve. Perhaps that would have been the best answer.

**Representative Mueller:** I think we ought to be working on the dissolution thing.

**Decker:** We have the dissolution covered with the other legislation you just passed. That process has been working very well. It's the reorganization issue that has become a problem.

**Representative Mueller:** I think that we need to go back to the reorganization plan and restructure that. I think I made a mistake in supporting this because it is not going to do what we want done.

**Chairman Kelsch:** On that line of thinking—as that reorganization was going along—why did they find Spiritwood so attractive.

**Decker:** I wasn't invited to provide information to that reorganization. When you look at the results, you can have some sort of understanding what the motivation was. If they would have dissolved most of the land would have gone to Jamestown because that's where most of the students go. The tax increase for those people would have been very substantial. Almost certainly, Jamestown would not have kept that school open for them. By going the direction they went they joined two other districts that have valuations way above average.

Spiritwood's is off the chart. The collective result is valuation per pupil in that new district is \$54.0 while the state average is \$16.0 to \$17.0. Their levies will be very low; they keep all three schools open probably indefinitely. When we are looking at outcomes we want from reorganization, it seems we missed the boat on every count here.

**Representative Hunskor:** Refer to the MLS situation. You are familiar with that. Originally Mohall, Lansford, Sherwood and Glenburn were working on reorganization and Glenburn pulled out of it. Many of the kids who were in the Lansford open enrolled into Glenburn. If this law had been there, had Lansford not been able to be a part of the reorganization. Since then it has caused major problems because the folks that are open enrolling in Glenburn also



want to move their land there. Would Lansford not have been able to be a part of that reorganization?

**Decker:** Lansford would not have been able to reorganize in that situation. When Glenburn pulled out, it created some big problems. They lost a major player on the south end. At that point it is logical to me that people would want to rethink their plans about future education. They are still pulled into a new district boundary where they don't want to be. Later when they put together an annex petition together, the new district resisted. It has not passed yet. If annexation is out, you need to think about proportionate valuation. If there are 10% of the students going out, there is no reason that they shouldn't take 10% of the valuation with them. We have gotten into the situation where annexation is viewed as conquering territory—taxable value. That's going to be a long term problem for us unless we fix it.

**Representative Johnson:** (Drawing on board illustrated problems he foresees with distances and locations of families where 20% of the students going to a different district.) He asked if this would stop reorganization.

**Decker:** It would delay it until some adjustment was made to allow those people move where they wanted to move. What should happen is they should get into a planning process and survey their patrons. If those people want to move to a northern school district we need to allow and facilitate an annexation of a piece of land off that northern edge to go to the districts on the north and then the rest of that area can reorganize into a district.

**Representative Mueller:** I don't see how this bill is going to accomplish that. Wouldn't it be better to set something in the reorganization plan that accommodates this issue?

**Decker:** When the State Board of Education reviews reorganization petitions, there are no parameters. They can make that decision on any basis they want. The effect is that there has never been reorganization they haven't approval. I expect that will continue unless there are things like this that prevent reorganization because it doesn't fit certain parameters. As

policy makers you should establish parameters that produce the results that we want with some degree of certainty.

**Representative Haas:** I was a little bit confused about this yesterday but it's become clear to me what it does. It is based on the premise that land mass, taxable value, should follow students. I have long subscribed to that principal. As we look long term at the reorganization efforts in ND, I think it does the right thing. It will definitely have some guiding effects on how school districts reorganize.

**Representative Hunskor:** If this bill would have been law and Lansford could not have been a part of the MLS, could Mohall and Sherwood, reorganized alone.

**Decker:** There is no limitation in law or rule at this point about the size of the district that can reorganize. Any two k-12 that have a total of 60 kids in high school could bring a reorganization plan to the state board and there is a good chance the state board would approve it.

**Representative Hunskor:** If this had been in place it would have prevented the situation we are in now.

**Decker:** I'm quite certain. Yes.

**Representative Haas:** It's also true the situation in Spritwood wouldn't have happened.

**Decker:** I'm sure. They had more than 20% going to Jamestown and could have reorganized with Jamestown or dissolved. Reorganization should be where two districts that are roughly equal come together and have some kind of future. Where you have great disparity between districts it causes issues, it would be better if those districts dissolve.

**Representative Mueller:** I Move we Reconsider our Action whereby we passed HB 1277.

**Representative Hunskor:** I second.

A voice vote was taken and the motion failed.

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House Education Committee

Bill/Resolution No **HB 1277**

Hearing Date: **7 Feb 07**

**Representative Mueller:** Given how I feel on this bill, I don't feel I can carry the bill.

**Representative Haas will carry the bill.**

Date: 5 Jul 07

Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1277

House Education Committee

Check here for Conference Committee

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

Action Taken No Pass

Motion Made By Y Mueller Seconded By Y Meier

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 0

Absent 2 (Haas + Solberg)

Floor Assignment Y Mueller

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

REPORT OF STANDING COMMITTEE

HB 1277: Education Committee (Rep. R. Kelsch, Chairman) recommends **DO PASS**  
(11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1277 was placed on the  
Eleventh order on the calendar.

*Change carrier  
to Haas*

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Date: 7 Feb 07

Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1277

House Education Committee

Check here for Conference Committee

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

Action Taken Recommendation on HB 1277

Motion Made By Mueller Seconded By Hunskor

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 \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Failed*

**REPORT OF STANDING COMMITTEE (410)**  
February 7, 2007 11:25 a.m.

**Module No: HR-26-2361**  
**Carrier: Haas**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1277: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS**  
(11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1277 was placed on the  
Eleventh order on the calendar.

2007 SENATE EDUCATION

HB 1277



## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1277

Senate Education Committee

Check here for Conference Committee

Hearing Date: February 27, 2007

Recorder Job Number: 3923, 3986

Committee Clerk Signature

Minutes:

Chairman Freborg opened the hearing on HB 1277, a bill relating to participation in school district reorganizations. All members were present.

Representative R. Kelsch introduced the bill. We have had conversation on school district reorganization in bits and pieces. With SB 2200 dealing with many of the issues legislators look at each session, the House Education Committee had time this session to study reorganization. There are several bills that will appear before the committee regarding reorganization. This bill deals with the philosophy that land mass should follow the student.

Senator Gary Lee asked if this bill requires a minority of 20% to make a decision for a school district.

Representative Kelsch said technically that is correct. If there are 20% going to one district and 10% going to another district and they are going to continue to go there after reorganization, it makes sense to dissolve the district or annex the land.

Senator Taylor said he assumes the 20% would be open enrolled in another district, they could be open enrolled for a number of reasons, extra curriculums for example, and they might not be the smartest set of schools to reorganize. Was that brought up in the House hearing?

Representative Kelsch said they did not have that discussion. In one recent reorganization of a K8 district, a group of students were not planning to go to the reorganized district, but it became an issue of good tax valuation, they would be a good school district to reorganize with, regardless of the interest of the students.

Senator Bakke said we are getting a lot of bills on reorganization. Perhaps they should be melded together and we should study the process. Has she considered doing a study first?

Representative Kelsch said they did talk about it. On the House side, they held all the bills together and talked about one comprehensive bill. She considered introducing them as one bill. She decided each issue should stand and be discussed on its own merit. These issues have cropped up over the years and have not received as much attention as necessary.

Reorganizations should be meaningful and sustainable. They should last 10 – 15 years.

Senator Gary Lee asked if 5% of students in a district were open enrolled at one district and 16% at another, even the 5% district would have to reorganize with the other 2, even if it didn't make any sense at all.

Representative Kelsch reviewed an example of Jamestown, Spiritwood and North Central (meter 30:10).

Senator Gary Lee said if Flasher kids were open enrolling to Mandan and Flasher kids were open enrolling to Bismarck and that was greater than 20%, in order for reorganization to happen, Mandan, Flasher and Bismarck would have to reorganize. Does he understand correctly?

Representative Kelsch said yes, but that is not the intent, at least on her part.

Tom Decker, Department of Public Instruction testified in favor of the bill. (Written testimony attached) He has some amendments. There have been reorganizations in Mohall Sherwood Lansford, in Enderlin Sheldon, and most recently in Spiritwood North Central Wimbledon

Courtenay where very significant issues in this area came up. He gave the example of Mohall Sherwood Lansford where they attempted a large land reorganization. Glenburn was involved until late in the process. That left three districts in the reorganization. Many people in the southern part of the area did not want to go north into the reorganized district when Glenburn dropped out. These people got roped in. When their annexations came along to the state board the new district opposed the annexation out. Their argument was this was part of the reorganized district and the budget was built on it. We need to prevent those kinds of things. Reorganizing is not about grabbing territory or roping in taxable value. In the long run, state policy needs to be that land is attached to districts where students want to attend, where they feel some identification, where parents want to pay their taxes, where they may be able to serve on the school board and to insure that in as many cases as possible. The other two examples are the same; the Spiritwood North Central Wimbledon Courtenay is the most egregious. Close to half the students from Spiritwood already go to Jamestown because they are a K6 district. Very few go anywhere else. Now the district has reorganized with North Central and Wimbledon and will be part of a K12 district and those students will continue to go to Jamestown. Before the reorganization, Spiritwood is paying tuition to Jamestown. When they are reorganized, next July 1, they will still go to Jamestown and will not longer be obligated to pay tuition. In a very real sense, this has become a tax shelter for the people in the newly reorganized district because they are sending their kids someplace else to get educated for state aid only. These kinds of situations simply should not happen. In more and more cases, with the disparity in populations that is developing, we will see an increase in the shifting of school district borders through dissolution and reorganization. We need to insure that as those borders change, the people who are inside the border of a district want to be there, want to send their children there, want to pay their taxes there. In a case where more

than 20% go elsewhere, some consideration should be made. In Kidder County, 5 districts are considering coming together. Some parts of the north and east of those districts may want to attach to other districts to the north and east because they feel like that is their best opportunity. If that involves more than 20% of the students, those districts should not be able to enter the reorganization or should have to beforehand make some arrangement to allow the students to go where they want to go. You can't just put a fence around the whole area and say you're in folks, whether you like it or not. During the reorganization discussion, they may have to arrange for some annexations on the north side of the district to other districts so the new district ends up with the people who want to attend there. More districts should dissolve, perimeter areas of many districts will want to go in some other direction than the proposed reorganization. He still wants to discuss a couple of amendments.

Senator Taylor said in the tax shelter case, could Jamestown deny open enrollment into their district?

Mr. Decker said its not really open enrollment. By law whenever there is a dissolution or reorganization, every student in all the districts involved has a new unfettered opportunity to decide where they are going to go to school. Very likely, most of those students from Spiritwood who are attending Jamestown will use that opportunity to attend Jamestown.

Dodge Golden Valley (reorganizing with Beulah) students will end up going a number of places and the land will be apportioned where their students will go, that is working as it should be.

Senator Taylor said it is outside of the open enrollment process, the students get a choice and the accepting district has no say.

Mr. Decker said right, they call it enrollment election. It requires no paperwork or advance notice. They simply decide.

Senator Taylor said Willow City dissolved, when the students decide where they are going, you have to take them at their word and proportion the land with where they say they are going to attend?

Mr. Decker said that is correct, we count on people's integrity. Department of Public Instruction has a form they send out, they need to use it more in reorganizations, that asks where they plan to attend. In the fall they may change their mind.

Chairman Freborg said if in reorganization we give them a choice in where to go, why doesn't the land follow them?

Mr. Decker that is exactly the point of this bill, we need to and we haven't been. In reorganization the tendency has been historically for whole districts to come together.

Sometimes that works. Increasingly in our large spaces (Kidder County is 1450 square miles and less than 400 students) we need to give people meaningful choices, not allow school district reorganization to be a territorial conquering issue.

Chairman Freborg said maybe we shouldn't allow 20% of the students to open enroll.

Mr. Decker said open enrollment is still one of the best things the legislature has done for North Dakota students and we need to protect it.

Chairman Freborg said it is creating a problem.

Mr. Decker said open enrollment is not creating the problem. We need to organize the service delivery.

Senator Flakoll said the graded elementaries, do their students sent to the high school count as resident students?

Mr. Decker said yes.

Senator Flakoll said if Mapleton sends 20% of its students to West Fargo, they could only attach to West Fargo, not Central Cass?

Mr. Decker said if Mapleton wanted to reorganize with Casselton and 20% went to West Fargo, they could not reorganize with Casselton unless they annexed some land to West Fargo first or they dissolved. 20% is arbitrary but 10% would be tight and difficult to manage. Senator Bakke asked why 20%.

Mr. Decker said it is a good starting point and a workable number. He is willing to defend it. He explained the situation in Dodge Halliday and why it is not always possible to attach land. (Meter 29:00)

Senator Gary Lee said in Senator Flakoll's example with Mapleton, it makes reorganization not an option; the only option would be dissolution?

Mr. Decker said yes.

Mr. Decker said there is a recent issue in Kidder County. There are 5 districts entering reorganization discussions, the first step in a two year process. Tuttle Pettibone will close their school this summer. The projected date for the Kidder County reorganized school district is July 1, 2009. Current law states a school can be non operating for 1 year so Tuttle Pettibone needs to dissolve by July 1, 2008. They will be involved in the Kidder County reorganization. He suggests an amendment that allows two years of non operating status for a school district actively involved in reorganization. Kidder County is the way to go for this school. We should provide a parameter to allow for it. It is expecting a great deal for them to operate until the reorganization is complete.

Bev Nielson, North Dakota School Board Association, testified in opposition to the bill. We need to take a breath on these reorganization bills. Tom worked hard on this and is very knowledgeable about it. Somewhere on his desk is map of the state with little circles drawn around it and we are making our way bill by bill to that and it seems a little haphazard and not totally thought out. We have had several bills, starting with can't form high school districts and

now we have the 20% bill, we will hear a 5% dissolution bill and they can't even name their own school district. As we are rolling along with these, the only decision left to local communities is when to reorganize. Next session we will see that bill as well. She believes putting hard and fast percentages in Century Code is dangerous; it doesn't leave any discretionary movement one way or the other and doesn't make good law. We heard two minutes ago another instance has come up that we want to change legislation to allow a certain reorganization that sounds good. Then before the end of the session we will see an amendment so that a group that doesn't sound so good cannot reorganize. Yesterday the Senate Education Committee heard a resolution to study reorganizations. She feels all these bills should be put in the study so with time and thought and honesty, if there is a map out there, we should decide if it's a direction the legislature wants to go instead of one bill at a time according to someone's list of what is acceptable.

Kayla Pulvermacher, North Dakota Farmers Union, testified in opposition to the bill. This is an issue of local control. They believe the community should have a significant part in the discussion.

Chairman Freborg closed the hearing on HB 1277.

Senator Taylor said he is apprehensive. Tom had some amendments. In testimony and in reading the language, the 20% would be cumulative. This could be worked into a study. He doesn't see the reason to get in front of the reorganizations with all these bills, particularly this one.

Chairman Freborg said those students in the example could continue to go to Jamestown, the property doesn't follow them. That is what we have been doing. He doesn't know what the concern is. If they go through a reorganization they can still open enroll to Jamestown? He can understand why the property should follow the students; we should have taken care of that

with open enrollment. If a certain percentage of students open enroll in a district, the property should follow them. The problem is they can come back to their home district and then the property is gone. Maybe we should limit the percentage of students who can open enroll.

Senator Taylor said he thought there was a cap.

Senator Gary Lee said there are some caps in there.

Senator Gary Lee said the bill limits the options. He understands the example Tom talked about is not one we would want to happen. In other cases it takes away from potential options.

Chairman Freborg said Bev Nielson came the closest to saying what is going on, we continue to pass bills to direct these reorganizations to do what Department of Public Instruction wants them to do.

Senator Flakoll moved a Do Not Pass on HB 1277, seconded by Senator Taylor.

The motion passed 5-0-0. Senator Taylor will carry the bill.



## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1277

Senate Education Committee

Check here for Conference Committee

Hearing Date: February 28, 2007

Recorder Job Number: 4058

Committee Clerk Signature

Minutes:

Chairman Freborg distributed amendments drafted by legislative council at the request of Tom Decker that Mr. Decker would like attached to HB 1277. Since the bill has already been passed out of the committee, Chairman Freborg asked if any committee member would like to get the bill back so the amendments could be attached.

