

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER
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DESCRIPTION

2354

2007 SENATE EDUCATION

SB 2354

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2354

Senate Education Committee

Check here for Conference Committee

Hearing Date: February 6, 2007

Recorder Job Number: 2928, 2929, 2931

Committee Clerk Signature

Minutes:

Chairman Freborg opened the hearing on SB 2354, a bill relating to instruction in physical education.

All members were present.

Representative Aarsvold testified in favor of the bill. He is a former school administrator and teacher.

He advocates the additional curriculum.

Senator Triplett testified in favor of the bill. (Written testimony attached)

Mary Ann Donnay, President, North Dakota Association for Health, Physical Education, Recreation and Dance, testified in favor of the bill. (Written testimony attached)

Senator Taylor asked about the phrasing in the bill, is it acceptable?

Ms. Donnay said it is right on target. It is an important course. It is offered in the 9<sup>th</sup> grade in Fargo, they use the same textbook.

Terry Eckman, Assistant Professor of Teacher Education and Human Performance, testified in favor of the bill. (Written testimony attached)

Senator Flakoll asked how many physical education teachers they graduate each year.

Dr. Eckman said she did not know.

Kassie Krebsbach, student at Minot State University, testified in favor of the bill. (Written testimony attached).

June Herman, American Heart Association, testified in favor of the bill. (Written testimony attached).

Lois Mauch, physical education teacher from Fargo, testified in favor of the bill. She was involved in a research project that demonstrated a correlation between fitness and reading scores. Four years of physical education allows time for personal fitness classes. Now is the time to act.

Valerie Fischer, Director of School Health, Department of Public Instruction, testified in favor of the bill. (Written testimony attached)

Senator Flakoll asked how many schools are currently offering what is being proposed in this bill.

Ms. Fischer said she does not know.

Senator Taylor asked how many students take it if it is offered.

Ms. Fischer said she can try to find out.

Gloria Lokken, NDEA, testified in favor of the bill. Quality physical education is important to students. Fitness is a lifetime skill and is important for the body and brain. As a 4<sup>th</sup> grade teacher, she used physical activity often to help the students with their thinking.

Senator Flakoll asked about the terminology in the bill, is it clear?

Ms. Lokken said if Department of Public Instruction thinks it's clear, she knows the kids understand it and the text book is readily available.

Doug Johnson, North Dakota Council of Educational Leaders, testified in opposition to the bill. (Written testimony attached) He visited with some principals this morning, mostly from small schools. Some already have 8 period days. With 15 students in a class, if half choose to take physical education, it limits the electives a student can take in a small school. It would force them to rearrange their staffing

patterns and might have to drop some electives. Many schools already offer 4 years of physical education. Bismarck requires ½ unit per year.

Senator Flakoll asked about the survey results distributed by Mr. Johnson. Did the other 150 districts agree with the bill?

Mr. Johnson said that is all that responded. He did not rerun the survey for this bill. He did not plan to hand it out until he spoke with the principals this morning and he discovered how concerned they were.

Senator Flakoll asked when the survey was run.

Mr. Johnson said in January, 2005, it is old data used in testimony for HB 1048. That bill included health as well. He can replicate the survey if the committee so desires.

Bev Nielson, North Dakota School Boards Association, testified in opposition to the bill. They have the same concerns as in 2003 and 2005 which are cost, available physical space, physical education teachers that are teaching other courses. The fit and athletic will take physical education every year, the unfit won't.

Senator Taylor asked if there are enough dollars in SB 2200 to make a difference.

Ms. Nielson said there are 16 different bills to add coursework this session. If SB 2200 starts with \$80 million, and \$35 million goes to equity that leaves \$45 million. If TFFR passes, that is another \$10 million; it starts to look like not much more than before. If we concentrate on rigor at all, there is not much increase. Some schools will only get 2% which will barely cover increases in salary.

Senator Flakoll asked for Ms. Fischer to come to the podium.

Senator Flakoll asked what effect this bill would have on home schooled students.

Ms. Fischer said they can take physical education in their home school setting or in their home school district.

Senator Flakoll asked if it applies directly.

Ms. Fischer said no.

Chairman Freborg closed the hearing on SB 2354.

David Rochholz, Minot State University wanted to answer a previous question. At Minot State they graduate 20 – 25 students a year in physical education, they had 24 last spring. He would guess NDSU and UND would be higher and Valley City and Mayville would be lower.

Senator Taylor asked if he has information on placement.

Dr. Rochholz said all but 2 found jobs in their field. If you go where the jobs are, they are available.

About 60% go out of state.

Senator Gary Lee asked if they are leaving for other reasons or is it because the jobs aren't here.

Dr. Rochholz said both.

Senator Taylor said we have the outdated financial figures from Doug Johnson; how do we know which bill needs a fiscal note? It would have been helpful with this bill.

Chairman Freborg said it would have been a guess. We could get an impact report from Department of Public Instruction but we would need it soon.

Senator Flakoll said he is thinking of an intern project. Did HB 1048 from last session have a fiscal note?

Senator Taylor said he does not need a fiscal note to make a decision, it would have been helpful.

Chairman Freborg said there will be an impact.

Senator Bakke said there will be an impact to small districts for text books and materials. Would it come out of foundation aid or should we add an appropriation?

Chairman Freborg said now it would come out of foundation aid. Some school districts will not get an increase this year due to declining enrollments.

Senator Flakoll said the intern reported there was no fiscal note on HB 1048.

Chairman Freborg said it had no fiscal impact?

Senator Flakoll said its Department of Public Instruction's call.

Chairman Freborg asked if he believes there is no fiscal impact.

Senator Flakoll said no.

Chairman Freborg said this is a real deviation from what we think of as physical education.

Senator Bakke asked why there is no fiscal note.

Chairman Freborg said he doesn't know. It should show the impact to the districts. Some fiscal notes are so far off, it is unbelievable.

Senator Flakoll said there are two challenges to writing a fiscal note, the Department of Public Instruction doesn't who is currently offering this and there could be a savings on the Human Services budget if there was an increase in fitness. It is a challenge to put together.

Senator Flakoll said he will offer no amendments.

Senator Bakke said she is 100% behind the concept; she is concerned about the additional cost.

Chairman Freborg said it is already viewed as an unfunded mandate.

Senator Flakoll said the FTE dollars would be available.

Senator Taylor said the personal fitness based course might be more appropriate in a health course.

Grand Forks uses it as physical education.

Chairman Freborg said diet was mentioned. We might curtail pop in the schools and do just as much for the children

Senator Flakoll moved a Do Pass on SB 2354, seconded by Senator Bakke.

Senator Flakoll said Bev Nielson made a point, we can offer it but we can't guess who will take it.

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



## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2354

Senate Education Committee

Check here for Conference Committee

Hearing Date: February 7, 2007

Recorder Job Number: 2999

Committee Clerk Signature

Minutes:

Chairman Freborg opened the discussion on SB 2354.

Valerie Fischer, Department of Public Instruction, presented information to the committee regarding schools and their physical education offerings. (Written testimony attached) Some schools have physical education enrollment that exceeds their enrollment and that is due to home educated students participating in physical education. The Division of Independent Study does not show enrollment because it changes every day. 190 schools offer physical education in grades 9 – 12 and 23,945 students are involved. That is 11,000 students short of all students which the bill would require to have the opportunity.

Senator Taylor confirmed that 190 schools offer physical education.

Ms. Fischer said yes, this year.

Senator Gary Lee said when looking at Alexander school, it shows kids are taking it in grades 9 and 10. Does that mean they are not taking it in grades 11 and 12 or they are not offering it?

Ms. Fischer said that is a good question and she doesn't know.

Chairman Freborg closed the discussion of SB 2354.



**REPORT OF STANDING COMMITTEE**

**SB 2354: Education Committee (Sen. Freborg, Chairman) recommends DO PASS**  
(4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2354 was placed on the  
Eleventh order on the calendar.

2007 HOUSE EDUCATION

SB 2354

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2354**

### House Education Committee

Check here for Conference Committee

Hearing Date: **27 Feb 07**

Recorder Job Number: **3958**

Committee Clerk Signature



Minutes:

**Senator Connie Triplett, District 18, introduced the bill. (Testimony Attached.)**

**Representative Hunsakor:** Would each student in each grade have to have available to them this PE course?

**Senator Triplett:** Yes, there should be in the curriculum each year this concept-based class that a student can take once.

**Representative Hunsakor:** One of the things we hear from the smaller schools is that we are going to have to hire another PE teacher. Is this going to require that many more PE classes that the school has to put another staff person on?

**Senator Triplett:** That I cannot answer. It is not a requirement that every student is required take PE year. I would imagine they would have to assess their own situation.

**Representative Herbel:** The qualifications for being qualified to teach this would be a major in physical education? Has that been checked out the DPI?

**Senator Triplett:** I would hope so. I met with the DPI and it was not mentioned.

**Representative Herbel:** If this is to be made available every four years it is conceivable then that the person taking it could choose to take it as a senior. Could the freshmen, sophomores and juniors all be in that same class?

**Senator Triplett:** They would offer it every year and encourage it at a lower level like 9<sup>th</sup> or 10<sup>th</sup> grade. I did this at once in four years at the recommendation of Legislative Council to make it possible for the smaller schools to comply.

**Representative Haas:** Did you consider introducing this fitness for life concept even at the lower elementary or mid elementary level.

**Senator Triplett:** I did. From what I have read the activity starts falling off in terms of choosing to be involved is most dramatic in the high school.

**Representative Mueller:** How big a challenge is going to be if we pass this, for folks to come up with a curriculum that deals with this?

**Senator Triplett:** I don't think it will be a problem at all. There are a number of curricula out there.

**June Herman, senior advocacy director, American Heart Association, testified in favor of the bill. (Testimony Attached.)**

**Amy Heuer, president-elect, ND Association for Health, Physical Education, Recreation and Dance, testified in favor of the bill. (Testimony Attached.)** She also read the written testimony of **Lois Mauch, physical education specialist, Fargo Public Schools (attached)** and that of **Terry Eckmann, associate professor Teacher Education and Human Performance, Minot State University (attached).**

**Representative Karls:** I'm seeing on the testimony that children spend a greater number of hours watching television—how does that apply when kids sit in front of a computer for so long?

**Heuer:** It would be some more of the same but it is a little more interactive; but you are not getting the physical activity and your body is not *producing* the endorphins that help the brain.

Heuer then introduced "***Position Statement Physical Education in the School***" of the **Building a Healthy North Dakota Alliance, a summary of the CA Department of**

**and the summary of the CDC Guidelines for School Health Programs to Promote**

**Physical Activity (attached).**

**Representative Herbel:** We're changing the way we are doing PE and kids are getting fatter, maybe we ought to go back?

**Heuer:** We are still trying to fight the damage that has been done the past 20-25 years.

**Valerie Fisher, director of School Health, DPI, testified in favor of the bill. (Testimony Attached.)**

**Representative Karls:** What about the students that are active after school in basketball, soccer, etc. It seems to me if they are also taking this in school; they are going to be dead.

**Fisher:** There are many students that are involved in travel and sport teams as you identify that have very full schedules. Right now there is no correlation between that and PE received at the school and they do not receive credit for that.

**Representative Myxter:** Sixty to Seventy percent of kids take PE in the summer because they don't want to sweat and then go back to class.

**Fisher:** Many schools, particularly the larger schools, do offer PE in summer and students will take it for that very reason. They get involved in something that is very physically demanding and they sweat and then go home. It also offers a greater a variety of the types of classes and activities so it is a very appropriate place to offer PE.

**Representative Myxter:** Are there credits for PE required for graduation in ND?

**Fisher:** That information is not known to us because we do not require schools to report to us what they require for graduation. The state doesn't require it.

**LeAnn Nelson, NDEA, testified in favor of the bill.** NDEA supports this bill. With all the studies and research and reports on obesity and inactivity, we felt this was a good idea. We

do realize that there may be some funding issue that comes into play with this and we hope that the state would help fund those that need to hire additional staff.

**Mary Wall, ND Council of Educational Leaders, testified in Opposition to the bill.**

**(Testimony Attached.)**

**Representative Hanson:** In a few days we will have SB 2309 up, are you going to support it or be in opposition to it.

**Wahl:** Our position is that it is premature until it becomes a part of the whole adequacy study.

**Representative Mueller:** You referenced resolution 3046 and other things that speak to where you think we are going to be—adequacy is a good point. Can you imagine if some of these other issues you referenced would be against the language in this bill?

**Wahl:** We just feel the language in this bill is inadequate to address the entire problem. It is premature because we have not fully determined what an adequate education is. Secondly, we think it is a mistake to go forward passing legislation under the assumption that the problem is that we just don't have enough PE offered at the high school level. We think the problem is much larger than that and we think the study would substantiate that claim. We need to go forward with in a more collaborative effort with all the people that have a stake in this.

**Representative Mueller:** I don't disagree with you at all about any of the points you are making. The fact is this is the Education Committee and we control only certain things and this one area that we do have some say in and that's why it is here before us today.

**Representative Hunsakor:** If what you say is true and we've got this broad spectrum to work on. This is part of the answer so why wouldn't we begin with this. It would not be wise to throw this out. We do need this; it's going to be part of the answer.

**Wahl:** We have two thrusts in my presentation. One is that this is premature in the sense that until we know what an adequate education is that it is premature to be talking about adding 3 units of PE. Secondly, do we really know that this legislation is going to be part of a



comprehensive plan to address the problem? If you are really going talk about PE in high school addressing the problem, then perhaps we need to talk about requiring PE as opposed to offering it.

**Doug Johnson, executive director, ND Council of Educational Leaders, testified in Opposition to the bill. (Testimony Attached.)** He also distributed the results of a survey taken of superintendents across the state **(attached)**.

**Representative Hanson:** Are you going to run the same survey on 2309. It's going to cost a lot more than this.

**Johnson:** No. We are not going to take a position against that. You are right, that will cost a lot more.

**Representative Hunskor:** It would seem to me that the concept-based PE should be a requirement. If our aim is to keep them healthy after they get out of school, then in their brain they should know how to do that.

**Johnson:** I do know that most of the school districts require four ½ units of PE and they have concept-based programs. I think that happens in many of these course offerings already.

**Bev Nielson, ND School Boards Association:** I will agree with Doug's comments.

**Brian Nelson, superintendent, Lewis & Clark School District, testified in opposition to the bill.** Our district is opposed to this. It seems unclear to me. In 2006 I looked at myself and saw how overweight I was. So I changed some things—diet and exercise. I hear nothing mentioned about diet. If you look at our school hot lunch programs that make sure there is no fat being served. We have a PE teacher that teaches K through 12 grade—240 kids. She sees those children each day. She doesn't have any more room to add on to the schedule. We offer activities that the DPI will not let us give credit for. Parents need to model behavior. Be careful about pinpointing PE, diet is a big part. This bill seems so unclear and I don't think this is not a good bill for kids. I don't think it's going to solve the problem.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2354**

### House Education Committee

Check here for Conference Committee

Hearing Date: **27 February 2007**

Recorder Job Number: **4012**

Committee Clerk Signature

*Jan Prindle*

Minutes:

**Chairman Kelsch opened discussion of SB 2354.**

**Representative Johnson:** Physical Education is fine but we need to look at a lot more than PE, look at the hot lunches and pop (after school), etc. The small schools that I have been in contact with are concerned extra positions and room available. I'm going to resist this bill.

**Vice Chairman Meier:** We did get the pop machines out. We shouldn't have to worry about pop.

**Representative Johnson:** They are open after school for those activities.

**Chairman Kelsch:** I found it interesting and we can hold off on this bill if you would like to. I found it interesting because there were a lot of superintendents that really didn't care if it's offered or not because a lot of them are currently doing so. I find some of the arguments a little bit interesting when they say they would have to offer fewer academic classes. That was kind of a bad one. The other was "almost all of our students are in sports and we don't feel we should have to reduce our academic offerings." I understand that kids are in sports, but not all kids are in sports and I'm not sure all kids put the same effort forward and you actually have some book learning when you are in a class and not when you are in sports.

**Representative Herbel:** What is preventing schools from doing this without legislation?

**Chairman Kelsch:** My guess is that a lot of the larger school districts are probably doing this.

Again it goes back to the disparity between offerings between a large school district and a small school district. They could do it now.

**Representative Hunsakor:** Isn't the personal fitness end of it covered somewhat in health classes. Don't they have to take a half unit of health already?

**Representative Haas:** We would have to look at the benchmarks and standards.

**Representative Johnson:** As Representative Myxter pointed out, you could fit this in the summer program. The other argument that the ones getting exercise are more aggressive in learning, I think you will find that the ones that are aggressive and active are the ones are the ones that participate.

**Representative Hanson:** Was anything every brought up about co-ed phy ed? If you only have 3 boys and 10 girls, you can have one class.

**Chairman Kelsch:** I think a lot of the classes are co-ed.

**Representative Mueller:** Amy Heuer spoke to the Bismarck program that they are on line with and moving ahead with. The implication there is that it is different than the health unit. I think there are other things that happen and need to happen in that one out of four years that talks about healthy life styles. Certainly they are connected but I imagine there is a different approach and there's a different curriculum. I think that's a really strong piece of this bill.

**Representative Herbel:** Do you think once every four years is often enough to be effective.

**Chairman Kelsch:** That was a concern for me but I understand why they did it that way—to try to ease some of the concerns of the small school districts. I wonder if the JPAs are doing anything with PE as far as offering some things interactively. I think that would one that was fairly simple to do because they have personal fitness on TV all the time.

**Bev Nielson:** I imagine they could do it but it wouldn't be free.

**Representative Wall:** The JPA in my area offers PE in the summer. Last year 190 kids participated.

**Chairman Kelsch:** What they do in Mandan is take the swimming part in the summer because the girls don't want to have the wet hair in class.

**Representative Myxter:** This is all voluntary, none of it is required. So if they have a choice between taking a phy ed class of swimming versus sitting in a class being told what they are to eat, what are they going to sign up for. How many will voluntarily sign up for a class that's going to tell them how to eat or exercise if they can go play volleyball, golf, biking.

**Representative Karls:** My concern too is that if you weigh this against academic, band is the one that suffers.

**Vice Chairman Meier:** It is unfortunate that we have come to an era in our lifetime where being overweight is an issue and health is an issue. I know that it should start from home but I see this bill and I know that Bismarck currently does offer what is in this bill. I support that. I think that whatever we can do to encourage healthy living for our youth is very important.

**Representative Wall:** It was brought up when we address adequacy, this would be addressed. When adequacy is dealt with will PE be dealt with?

**Chairman Kelsch:** When we talked about adequacy during the P-16 meetings this summer, PE was just kind of mentioned it wasn't really talked about. I think when most people talk about adequacy they kind of forget about the arts, music, PE. They talk about math, science, etc. Sometimes there are areas that overlooked. It is an appropriate time to be looking at it but I think this is the area is glossed over. I believe a well-balanced student has all of these in their curriculum every year. We can't just have the math, science, English; we have to have all of these. I am probably going to support this bill and the reason is that I was told by a constituent that every one of us should have to have body mass index published in the newspaper.

**Representative Hunskor:** It seems what should come out of here is what's going to stick in a kid's mind so they have a better healthy life style when they get out of high school. Just to make PE for 4 years or offer it for 4 years; they can have their fun but when they get out of school has that encouraged them to continue with that. Then we get back to the concept thing where they get into a classroom and see why and what you should eat—just being active doesn't mean they are going to carry it over and continue it that way.

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

**Vice Chairman Meier:** I second.

**A roll call vote was taken: Yes: 8, No: 5, Absent: 0.**

**Representative Mueller will carry the bill.**

Date: 27 Feb 07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2354

House Education Committee

Check here for Conference Committee

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

Action Taken No Pass

Motion Made By Mueller Seconded By 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 8 No 5

Absent 0

Floor Assignment Mueller

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

**REPORT OF STANDING COMMITTEE (410)**  
February 27, 2007 3:33 p.m.

**Module No: HR-37-4055**  
**Carrier: Mueller**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2354: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS**  
(8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). SB 2354 was placed on the  
Fourteenth order on the calendar.

2007 TESTIMONY

SB 2354



Senate Education Committee  
Sen. Layton Freborg, Chair  
February 6, 2007  
Senate Bill 2354

*Same to  
House*

Chairman Freborg and members of the committee, my name is Connie Triplett, Senator from District 18 in Grand Forks. I am pleased to sponsor SB 2354, relating to physical education instruction in the high school curriculum.

This bill requires that high schools in our state make available to students at least one-half unit of physical education in each year. In addition, at least once every four years, the physical education unit must be a concept-based fitness class that includes instruction in the assessment, improvement, and maintenance of personal fitness.

I will freely acknowledge that there is not an original thought in this bill. Those of you who have been here awhile will recognize the half-unit per year. It was in the statute once and then was removed. The notion of the concept-based class I got from Dr. Mark Sanford, Superintendent of the Grand Forks Public Schools. He tells me that he got the idea from the fact that several other states are now requiring such classes. I asked for a copy of the policy that Grand Forks is working on and it seemed like such a great idea to me that I decided I had an obligation to share it in this legislative session.

I am aware that there was opposition to the idea of a half-unit of physical education from some smaller schools last session, but my recollection is that the opposition was based largely on a perceived lack of resources by some schools. Since we are all working diligently this session to increase resources to schools in a significant way, I am hoping that the opposition will be more muted than it was last session.

Also, the looming health care crisis caused by so many obese and inactive young people is becoming clearer every day. The early onset of type II diabetes is one of the most alarming facts of life in America to me. There are others here today who can describe the health needs of our youth in more detail, but I would ask you to flip through the curriculum proposal from Grand Forks to get an idea of what I mean by a "concept-based fitness class".

In Grand Forks they are proposing to require this class at the ninth-grade level. They plan to offer the class every year to ninth graders. This bill, on the other hand, only requires that such a class be offered once every four years. That is in recognition of the fact that smaller schools may not be able to offer every class every year. My hope would be that most schools would consider offering this class at least once every two years so that students could take it in ninth or tenth grade, when I think it would be more useful than it would be later.

Thank you for considering this idea.

