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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 a 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 need 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 straight 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 No 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

JS
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 Do 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 Sukut: 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

mean that we don't believe in local control, but from a state policy standpoint does it make economic sense to even think along these lines or allow it. The House Education Committee felt pretty strongly that it should not be period. We don't want elementary districts to be combining to form new high school districts. I think in the Minot situation that's particularly true when you look at the demographics of the whole area. That's where we were coming from in the House Education Committee. I think we would have a hard time accepting this amendment and saying that we think this is permissible.

Senator Flakoll: Would this deviate? Because if they met that threshold then they would be in a high school district?

Chairman Haas: That's true. I don't think that was the point of our past thrust and the direction that we wanted to be going to in regards to the state. From our perspective we said with these situations and with the declining enrollment, not only small schools but large schools also, it doesn't make economic sense to let things like this happen.

Senator Flakoll: Did your Committee discuss in terms of bussing situations what would be the least problematic bussing situations in these terms? For one thing, I understand that Minot doesn't provide bussing transportation as a general rule. They could make exceptions for those in outlying areas but then they set themselves up for some problems with people that are in another part of the district that as just as far away as one of the aforementioned graded elementaries.

Chairman Haas: I think the perspective was that when possible, either when dissolutions or consolidations occur in a situation like this, that those details—transportation, etc.—are all worked out at local level through the reorganization plan. As Representative Hanson mentioned there have been some discussions by the Bell School District and the Minot School

District agreeing about providing transportation. That is something that happens in the reorganization plan.

Representative Hanson: The superintendent at Minot said there are other districts coming in to Minot to pick kids up with that open enrollment. I don't know if you have busses going both ways, is that necessary?

Senator Taylor: I was always led to believe in the plan for reorganization; transportation is required to be a part of that plan. We have always said that you don't have to provide bus transportation but when you reorganize then you are required to . . .

Chairman Haas: It's always addressed. It has to be. There is no statute or law that says it has to be provided.

Decker: Current law allows districts that have transportation to decide by a vote to eliminate it. I am not sure how that works with a district that hasn't had a transportation obligation.

Chairman Haas: Whatever they agree to in that plan.

Senator Flakoll: I'm not sure if this germane or not but I think there was a time where, as a carrot, some of the reorganizations that occurred were done so with additional assistance by the state for some transportation needs.

Representative Sukut: I'm looking at this and thinking about SB 2200 right now and what we're looking at with all of the small school districts that we have in there and trying to address the problems of those districts and to look at something like this where at best you are putting together another school district potentially, it creates a problem to figure out how to keep it moving and how to keep it going. Talking about School District 8 in Williston, that's another situation where we have SD 8 buses driving in to Williston picking up kids at their home and trucking them out to Stony Creek or Round Prairie or any one of those 4 schools out there. When you look at trying to fund all this again, it would make sense if SD 8 would pull in and

become a part of SD 1 and were all under one administration and were all working together. Economically it just makes sense to do all of that. When I look at doing something like this, I'm not sure that I don't see more problems down the line—just making more problems for ourselves. I'm not sure this is the way we should be going.

Senator Taylor: I don't think what we do or don't do is going make elementary districts more or less likely to attach to a high school district. SD 8 with 220 students under our amendment wouldn't be allowed to do that anyway. I would ask the question without this subsection 2 in this bill that we came in with, have we been swamped with elementary districts joining up together to form a high school?

Chairman Haas: I don't think that's the issue. I think the issue is we think to allow this will simply create a further fragmentation of a system that's already in declining enrollment and we need to strengthen those districts and units that have long-term viability. I think there are a couple of other issues that enter in to this. We know in the Bismarck area, in the Jamestown area, in the Minot area in many cases these smaller elementary districts are recruiting students. Whether they are doing it actively or surreptitiously, they are recruiting students in to their elementary school district and taking away students from the larger district. Is that right or is that not right? We believe in open enrollment. In many cases those districts have extremely low mil levies and essentially form a tax shelter for those people that are living there. I think that's another big component of this. I think it's what Representative Sukut is referring to.

Senator Flakoll: I don't think that has anything to do with the bill. Open enrollments can be open enrollments whether this bill passes or dies. I don't think we are restricting or encouraging those buses to go in or out of xyz community. That will happen regardless. If all those school districts went to Minot it doesn't mean the students will go there. I think

mathematically the fewer districts we have tightens up the disparity. The standard deviation between the have and have not's really narrows down. If you were to say that every JPA is own school district, I think your margin between the highs and lows would be much, much tighter than it is today. There's a district that \$250 in money behind them and there's one that is \$601.0 behind each student. From the Senate standpoint what this came down to is that it would be a viable school district under the provisions here. I'm not sure if Tom has the demographic data from some of those districts as far as where they are now compared to 5 or 10 years ago. I'm sure we could get that. This really comes down to, in our minds, a Minot situation. It's optional.

Senator Lee: When we are looking at consolidating school districts, here we would eliminate, if they all came together, four school districts—elementary districts that we were trying to eliminate for years. They would be one of the larger districts in the state if they all came together. I'm not sure I'm recognizing the significance of the problem that we're trying to describe.

Chairman Haas: I think I can put it in a real terse statement—it's the wrong way to get rid of elementary districts.

Representative Hanson: Are all those four around Minot sending their kids to Minot for high school?

Decker: The majority of them go to Minot.

Senator Flakoll: The amendments do not require them or mandate them to have all these districts join each other. It gives them the option. I think this is just a tool.

Representative Hanson: If they formed a high school they would be traveling further. Bell and Eureka are just out of Minot a little ways. They would be closer going to Minot.

Chairman Haas: Obviously we are not going to resolve this today. Between now and our next meeting we can find those growth figures that Senator Flakoll talked about. Are there any requests for additional information?

Senator Flakoll: Could someone from DPI supply us a list of all the graded elementaries with their current enrollment. Would it be of interest to the committee to also have the closest high school district to that particular school because not everyone knows what New 8 is. This would give us relative push and pull.

Chairman Haas closed the committee meeting.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1198**

House Education Committee

☒ Check here for Conference Committee

Hearing Date: **11 April 2007**

Recorder Job Number: **5911**

Committee Clerk Signature



Minutes:

Attending: Chairman C. B. Haas, Representatives Hanson and Sukut, Senators G. Lee, Flakoll, Taylor.

Chairman Haas opened the Conference Committee meeting on HB 1198. It has been a while since we met on this bill. Are there any new comments, suggestions, opinions, ideas? Do we need to think about it for three days again?

Representative Hanson: We're talking about Minot and Williston. As I understand it, Sawyer Public School wants to join with the elementaries around Minot. Will they hit the magic number?

Chairman Haas: I don't have the enrollment numbers here. Tom (Decker), do you have that handy.

Senator Taylor: Sawyer is a high school district so if they combined with them, they wouldn't be affected by the bill; and Williston, as I understand, those elementaries don't have the 360 so they would be looking at joining with the high school district there.

Chairman Haas: Sawyer and Surrey are both high school districts.

Representative Hanson: So this bill wouldn't apply to them anyway?

Chairman Haas: It applies primarily to Eureka, South Prairie, Bell and Nedrose. I will reinforce some of the things that I mentioned last time. To me it's so contrary to the direction

that we have been wanting to head in the state for the last ten years or more. It doesn't make any policy sense to do this--trying to start a new high school district on the south side of Minot. Some of these elementary districts are in the city limits of Minot. That doesn't make any sense. All the high school kids already go to the Minot school. There is plenty of room there. If we approve something like this we are setting a policy that is going enable the spending of probably several million dollars to build a new high school when there is adequate space in Minot already. I can't understand or grasp the rationale under any conditions.

Senator Taylor: We're assuming then that the taxpayers in those elementary districts are going to want to spend several million dollars on a new building when confronted with the decision of the possibility of going to a high school that has surplus space. I give them a little more confidence than that. I don't know how the bill would fare in the Senate without the amendments. I think there is a desire to leave well enough alone on some of these. A lot of these reorganization bills some members in the Senate are putting more stock in the study that's going to hopefully take place in the interim in terms of what to do with the reorganizations and dissolutions.

Chairman Haas: I guess we always have the option of just killing the bill in both houses. That's certainly an option. If we can't come to an agreement, that's where we will have to go.

Representative Hanson: I can see a lot students in Minot open enrolling to a new high school. Minot is losing some now to the smaller towns around it. Williston loses some, Jamestown loses some, West Fargo loses a big bunch, and Mandan loses a big bunch to open enrollment. This would probably allow those students from Minot to go to this rural high school. I don't think that's what open enrollment was set up to be.

Chairman Haas: In connection with that I do have some numbers here. Nedrose has 54 open enrolled in, and 44 out; Bell has 49 in and 24 out. I'm assuming those that are going out

are 9 through 12 kids. Eureka has 3 open enrolled in and 12 open enrolled out; South prairie has 34 in and 37 out.

Representative Hanson: The superintendent of Minot told me that that one of those schools do run buses into Minot to pick up kids for open enrollment.

Representative Sukat: I look at a lot of these small school and trying to figure out how we are going to continue to keep all them functioning. It's a problem. Now we are looking at the possibility of putting another small school into the system and to me it looks like we are trying to create another problem. Now we have another school out there with 3-400 kids in it and then try to figure out to find the funding to keep that one going. I look at this and say that a lot of these kids are going to Minot and that's a good place for them to go. The kids from those small schools when it's time to go to high school are going to Williston and that's a good place for them to go. I'm not sure we wouldn't just be better off if we can't come to agreement, to kill the bill.

Chairman Haas: We always get in to the argument of local control and let them decide what they want to do with their own money; but I cannot see us doing that. Too many times we use those arguments when they favor our position. When they don't favor our position it's not a point anymore. I think its important issue—local control; but I firmly believe it has to be coupled with responsible state policy established by the Legislature. I would not consider this responsible state policy when it comes to the organization and delivery of K – 12 education.

Senator Flakoll: We're also making the assumption that they would only go to Minot schools. Both chambers have passed this session which would allow the air force base to be its on district. That could be an option in the future. The point is too that we have survived a good number of years without this legislation without people running around and having these

schools joining together in high school districts. I don't know that there would be a rush to have this happen.

Chairman Haas: Our position is that we don't want it to happen. If it's not going to happen without this legislation, then let's just kill the bill.

Senator Flakoll: That would be fine with us. Could they form a high school district if this bill were to die? There is no historical precedence for it. I don't know if the Department (DPI) would allow that to happen.

Chairman Haas: I can't answer that. I don't think any of us can answer that at this point.

Senator Lee: If the reorganization plan were developed, doesn't that have to go through the DPI first in terms of approval.

Chairman Haas: It is developed by the districts involved, goes through the county committee, state board, and then back to the districts for a vote. The plan has to be approved before it's voted on by the individual districts.

Senator Flakoll: Either motion goes to the House first. **My motion would be that the House accede to the Senate amendments** and then dispose of it. That would be the cleanest.

Senator G. Lee: I Second.

A roll call vote was taken: Yes: 3, No: 3, Absent: 0 The motion failed.

Chairman Haas adjourned the meeting.

REPORT OF CONFERENCE COMMITTEE (ACCEDE/RECEDE)

Bill Number HB 1198 (, as (re)engrossed):

Date: 11 April 07

Your Conference Committee Education

For the Senate:			For the House:		
	YES	NO		YES	NO
<u>Sen. G. Lee</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Rep. Haas</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Sen. Flakoll</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Rep. Sukut</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Sen. Taylor</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Rep. Henson</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJA/HJ) page(s) 858 -

and place on the Seventh order.

, adopt (further) amendments as follows, and place on the Seventh order:

, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) was placed on the Seventh order of business on the calendar.

DATE: _____

CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Flakoll

SECONDED BY: Lee

VOTE COUNT 3 YES 3 NO 0 ABSENT

Revised 4/1/05

Failed

REPORT OF CONFERENCE COMMITTEE

HB 1198: Your conference committee (Sens. G. Lee, Flakoll, Taylor and Reps. Haas, Sukut, Hanson), having been unable to agree, recommends that the committee be discharged.

HB 1198 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1198

Tom Klecker
ALPI

HB 1198
16 Jan 07

Testimony on HB 1198

House Education Committee

January 16, 2007

Chairperson Kelsch, members of the committee, House Bill 1198 makes a small change in the law regarding school district reorganization in North Dakota. Reorganization law currently allows a group of elementary districts to reorganize and form a new K-12 district. House Bill 1198 would prohibit elementary districts from reorganizing and forming a new K-12 district.

A fundamental policy issue underlies these proposed changes. A policy that has been implied or assumed now requires a discussion and, if you choose to follow this policy, we need to make it explicit in state law.

The issue revolves around the basis on which we allow land to move from one school district to another or the basis on which we approve school districts joining through reorganization. The fundamental policy issue is that to the highest degree possible, when land moves from one school district to another through any available vehicle, the people who live on that land should either be attending school in the district to which they are being attached or intend to go to school in the district to which the land is being attached.

You might be thinking at this point "well, haven't we always done it that way?" The answer is "No" and recently decidedly "No". A number of recent examples illustrate the point. In several recent reorganizations, which typically bring whole school districts together into a new district, sections of land has been included in reorganizations when persons living in those districts on those land areas clearly indicated that they did not want to

become part of the newly reorganized district. For example, we have had a request from a large land area in the newly reorganized Mohall-Sherwood-Lansford district to annex out to the Glenburn School District. While the reorganization of these three districts was being discussed, these people indicated their desire not to become part of the reorganization. However the process under law at that time was these people could annex out after the effective date of the reorganization. When they pursued that course, their annexation was turned down. Possibly, if people from the same area submitted an annexation proposal configured somewhat differently, it might be approved by the State Board.

Similar circumstances occurred when Enderlin and Sheldon reorganized into a new district. In this case, I was involved in providing information presentations to both district boards and their public before the reorganization really began to develop. It was clear from the beginning that approximately the southern third of the Sheldon District preferred not to become part of the newly reorganized district and in fact wanted to become part of the Lisbon School District. Patrons in that area have, for a long time, sent their students primarily to Lisbon Public School. Again, the provisions for allowing land out of reorganizations are unclear and the district boards chose not to pursue an alternative that allowed that land to be left out of the reorganization but reorganized all of both districts into the newly reorganized district. Now patrons in that section of the old Sheldon district will need to go through an annexation and seek to have their land annexed out to Lisbon.

A more recent reorganization approved just this fall, provides more troublesome circumstances in terms of this basic policy issue. This fall, a reorganization between Spiritwood, Wimbledon-Courtenay and North

Central School District at Rogers was approved by the State Board of Public School Education and sub-sequentially approved by the voters of those districts. The State Board was aware at the time they approved the proposed reorganization, that historically virtually all of the students of Spiritwood attended public schools in Jamestown and would continue to attend public schools in Jamestown even if the reorganization was approved.

State law very clearly allows all students in any district that is reorganized or goes through dissolution, to make a new choice of school district of attendance on or shortly after the effective date of the dissolution or the reorganization. That choice lasts the rest of their school career unless they change district of attendance subsequent to their initial choice.

In the case of the Spiritwood, Wimbledon-Courtenay, North Central reorganization, Spiritwood which is a K-8 district, became part of a newly reorganized K-12 district. Previously, Spiritwood students had attended Jamestown Public Schools. Spiritwood was required to pay full tuition to Jamestown. The reorganization will have the effect of allowing all of Spiritwood students to open enroll to Jamestown and Jamestown will receive only state aid for those students.

State policy regarding school organization should clearly provide for land to move from districts that are dissolving to districts where students will actually attend school and school districts should not be allowed to reorganize unless a high percent of both districts include areas where patrons and students want to become part of and plan to attend school in the newly reorganized district. Those areas that do not want to become part of the newly reorganized district should be left out of the reorganization or districts that have a situation in which patrons want to go in multiple directions

should dissolve and attach to the districts where parents and students want to attend school.

Specifically in regard to House Bill 1198, K-8 districts by definition, have at least a third of their students typically attending school in a district outside the district of residence. In some cases, what we call K-8's are actually K-6's and may have half of their enrollment attending schools outside of their district of residence.

Today, under North Dakota law, these districts are paying tuition for all of those students to attend outside of their K-8 District. Typically, these students who are attending school outside of the K-8 District go to several different neighboring high schools. When the K-8 District no longer exists, the land should be attached to those high school districts where students have historically attended or plan to attend. That makes reorganization an impossibility for most K-8 Districts. There are currently no circumstances in North Dakota where a reorganization between multiple K-8 Districts to form a new high school district would be justified. In every case, that kind of reorganization would deny taxable resources and or potentially student enrollment to neighboring high school districts who are already educating those students and who may actually depend on tuition revenue from those districts as part of their budget.

That concludes my testimony, I will be happy to answer questions.

TESTIMONY ON HB 1198
SENATE EDUCATION COMMITTEE
February 21, 2007
by Thomas Decker, Director, School Finance
(701) 328-2267
Department of Public Instruction

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