

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1305

2007 HOUSE EDUCATION

HB 1305

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1305**

House Education Committee

Check here for Conference Committee

Hearing Date: **29 January 2007**

Recorder Job Number: **2138 and 2190**

Committee Clerk Signature

Jan Prindle

Minutes

Vice Chairman Meier opened the hearing of HB 1305.

Representative R. Kelsch introduced the bill. This bill came out of travels with the Education Improvement Commission travels and the issues we found in rural area. They are just not able to get school members by the way we have strictly defined in statute. This would make a change to that.

Dr. Don Piper, UND, testified on behalf of the bill. He distributed an information sheet (Attached.) and went through the data with the Committee. We have an unworkable situation with regard to finding school board members for reorganized districts. The reorganization is a complicated but a good law. We have discovered some quirks with it. There is a problem between the school district law and the reorganization law. I would recommend a couple of amendments: delete in Line 22 "which is effective after July 31, 2007" and add an emergency clause.

Representative Hanson: If we are having problems getting candidates from the rural areas, why not elect them all from the "at large"?

Piper: If it were my choice, I would have it that way. We would have much better choices to make if board members ran "at large" rather than the way they do now. That would require a

couple of changes in Century Code. I would like that to happen, but I'm not qualified to do that.

Representative Herbel: Under section 2 then, when the school district is going to reorganize then they describe how they want their board elected, they could go back to this form as now stated.

Piper: Yes, they could.

Bev Neilson, representing the ND School Boards Association, testified in favor of bill. We support the bill. I also think that there may be some legal issues in that you don't vote on how much land you own or how much money you make but it's never been challenged.

Dr. Wayne Sanstead, State Superintendent of Schools, testified in favor of the bill. It would benefit those districts reorganizing. In speaking to Dr. Tom Decker, he also urged adding an emergency clause. This would benefit some reorganizations in the works.

Representative Herbel: In your experience with reorganizing school districts do you see them doing much different than what subsection one already has in it?

Sanstead: I know when they come in with a reorganization plan lots of deliberation has been given to school board representation. That was always a concern in terms of property values more than anything else.

Dean Bard, representing ND Small Organized Schools, testified in Opposition to the bill. We have a deep concern that this is not in the best interest of school districts. There was a promise by the legislature that there is rural representation on the board. We feel it may impede reorganization. I ask you to think about this as you deal with this legislation.

There being no further testimony, Chairman Kelsch closed the hearing of HB 1305.

At a later time on the same date, Chairman Kelsch opened discussion of this bill.
She discussed the amendments suggested.

Page 3

House Education Committee

Bill/Resolution No **HB 1305**

Hearing Date: **29 Jan 07**

Representative Haas: I move the amendments to remove "which is effective after July 32, 2007" and include an emergency clause.

Representative Mueller: I second.

A voice vote was taken: The amendments were accepted.

Representative Mueller: I move Do Pass as Amended.

Vice Chairman Meier: I second.

A voice vote was taken: Yea: 11, Nay: 0, Absent: 2 (Herbel and Solberg)

HB 1305 passed as amended.

House Amendments to HB 1305 (70546.0101) - Education Committee 01/30/2007

Page 1, line 2, after "boards" insert "; and to declare an emergency"

Page 1, line 22, remove "which is effective after July 31, 2007."

House Amendments to HB 1305 (70546.0101) - Education Committee 01/30/2007

Page 2, after line 8, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 29 Jan 07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1305

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amend per below

Motion Made By Haas Seconded By Mueller

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 Sukat					
Rep Wall					

Total Yes 11 No 0

Absent 2

Floor Assignment _____

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

Line 22: leave out "which is effective after July 31, 2007"

Add: Emergency Clause

Date: 29 Jan
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1305

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do Pass as amended

Motion Made By Mueller Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep Hanson	✓	
V Chairman Meier	✓		Rep Hunsakor	✓	
Rep Haas	✓		Rep Mueller	✓	
Rep Herbel	✓		Rep Myxter	✓	
Rep Johnson	✓		Rep Solberg	0	
Rep Karls	✓				
Rep Sukat	✓				
Rep Wall	✓				

Total Yes 11 No 0

Absent 2

Floor Assignment Mueller

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

REPORT OF STANDING COMMITTEE

HB 1305: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1305 was placed on the Sixth order on the calendar.

Page 1, line 2, after "boards" insert "; and to declare an emergency"

Page 1, line 22, remove "which is effective after July 31, 2007."

Page 2, after line 8, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2007 SENATE EDUCATION

HB 1305

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1305

Senate Education Committee

Check here for Conference Committee

Hearing Date: February 26, 2007

Recorder Job Number: 3807, 3808

Committee Clerk Signature

Minutes:

Chairman Freborg opened the hearing on HB 1305, a bill relating to membership on rural school boards. All members were present.

Tom Decker, Department of Public Instruction, explained the bill. Current law says that if the majority of property in a school district is agricultural property, a majority of the school board should come from rural areas. It is getting hard to meet the requirement. At noon tomorrow he has another meeting with the school districts in Kidder County which is another area where it will be hard to achieve the required rural board members.

Chairman Freborg asked if the school board membership requirements are made during a reorganization.

Mr. Decker said it is required by law, they can have 5, 7 or 9 members. The problem now is the rural members.

Senator Flakoll asked if the word boundaries refers to city or school district boundaries.

Mr. Decker said it applies to all districts in North Dakota.

Senator Taylor asked the history of the law.

Mr. Decker said he doesn't know, it has been here longer than he has, since 1989. It was perhaps drafted in the 1960's. The issue was representation of those who held the taxable value in a school district.

Senator Taylor asked if these changes could be made in subsection 1 rather than the free for all in subsection 2.

Mr. Decker said this leaves it pretty open, in the short run we need to do it. It should be considered in SCR 4030 the committee just passed.

Senator Bakke asked how many school districts are having this type of problem?

Mr. Decker said Jon Martinson or Bev Nielson might know. With reorganizations, it is typically a problem. Most rural districts struggle to find representatives from rural areas.

Dr. Don Piper testified in favor of the bill. (Written testimony attached)

Bev Nielson, North Dakota School Board Association, testified in favor of the bill. Their phones ring non stop with districts calling who can't find people to fill the ballots. It is a huge problem.

Senator Taylor asked if as a support "rural" could be changed to "active farmer".

Ms. Nielson said it is problematic basing representation on anything other than one man, one vote. Basing representation on property value could be unconstitutional. It is important to let the organization function in a way they can be successful.

Senator Taylor said we have been under this since the 1960's and no one has been impeded upon enough to challenge it if it is unconstitutional.

Ms. Nielson said as far as she knows it hasn't been formally challenged but there are instances where it should have been because we are operating with people who would get two votes or empty spots in a school district.

Senator Bakke asked if this wide open legislation that would apply to reorganizations would be appropriate for all school districts.

Ms. Nielson said she believes after 5 years you can make a change in a reorganization plan. She hasn't given much thought to the implications of an across the board change.

Senator Flakoll asked if there are honest occurrences where there was no one on the ballot and two votes allowed someone to be a school board member.

Ms. Nielson said yes.

Senator Gary Lee asked if they could still have a defined vote but the vote is at large so there could be many more votes cast for that individual, isn't that part of the process too? It potentially could be a way a district is organized to vote in their school district?

Ms. Nielson said she believes we vote at large for all of them, everyone votes for all the candidates, you just have to be from certain areas to be a candidate.

Senator Gary Lee asked how they only received two votes.

Ms. Nielson said they were write in candidates, there was no one on the ballot.

Sandy Clark, North Dakota Farm Bureau, testified in favor of the bill. This is a difficult bill for Farm Bureau, it addresses rural areas and ag land. They have always supported the current language that considers rural representation. They can understand the situation that has been presented today, there are areas where it is difficult to get people to run for school board positions. The rural folks need to step up to the plate and accept the responsibility. This is for reorganization districts only and they can support that. They can also support the understanding that this is a local control decision. She has heard talk about rewriting sections or repealing and allowing them to come from at large anywhere, Farm Bureau might have a different position if that were the consideration.

Chairman Freborg closed the hearing on HB 1305.

Senator Flakoll moved a Do Pass on HB 1305, seconded by Senator Gary Lee.

Senator Taylor said he is glad there is no opposition to the bill but he will vote against it because he wants to do a little more research before he would support it.

The motion passed 3 – 2. Senator Flakoll will carry the bill.

REPORT OF STANDING COMMITTEE

HB 1305, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends DO PASS (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1305 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1305

lation gives school districts the opportunity to match employment offers made to North Dakota teachers from other states. Teachers who were employed by a school district during the previous school year are not eligible to receive a signing bonus, and while NDSOS does not doubt the wisdom of this exclusion, we do believe that teachers whose employment was terminated by a reduction-in-force nonrenewal, and forced to seek new employment as a result, should not be denied the opportunity to receive a signing bonus. We believe that Section 15.1-09-33.1, N.D.C.C. should be amended accordingly.

12. The "No Child Left Behind Act" (NCLB), while seeking to improve educational advantages for the nation's youth, has had far-reaching consequences for many school districts. NCLB was created, for the most part, to address problems in urban schools and limited consideration was given to rural schools by the Act. As a consequence, NCLB has created many problems for these institutions across America.

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North Dakota Small Organized Schools

**Legislative
Program
2007**

**NORTH DAKOTA
SMALL ORGANIZED SCHOOLS
LEGISLATIVE PROGRAM - 2007**

1. Teacher salaries are a matter of paramount importance and it is the responsibility of each local school district to determine such salaries, in accordance with local conditions and needs, so as to attract and retain quality professional instructional personnel.
 2. The association believes that the changing of school district boundaries is a matter for local determination. Any legislation providing for school district boundary changes or school closings based solely on reasons of location, size or level of grade offerings will be opposed. We continue to believe that school district reorganizations based on factors that clearly show educational advantages for pupils are appropriate.
 3. All transportation costs, including special and vocational education, should continue to be funded, and districts should be reimbursed for 100% of cost.
 4. All schools should have access to improved distance learning technology for instructional purposes and this program should continue to be funded. Especially, the state should continue funding for the statewide network. School boards should have the authority to levy up to 5 mills to meet funding costs. In addition, school building fund tax moneys should be allowed to be used for the purchase and maintenance of educational technology equipment for student instruction.
 5. The establishment of each school's calendar is a matter of local control. The legislative assembly should permit schools to have more flexibility to determine the length of a school day.
 6. NDSOS supports legislation that funds special education in an adequate and equitable manner and at a level that enables school districts to meet the needs of special education students. The state should have a responsibility to fund at least 70% of the cost of special education.
 7. It is recognized that mandated educational requirements issuing from the state are necessary for the comprehensive delivery of educational services.
- However, it is also believed that the state should fund at 100% any new mandate that it requires, and, if no funding is made available, then school districts should not be required to comply with the mandate. Interim committees of the North Dakota Legislative Council should continue to review current practices to determine which educational mandates are no longer current or necessary and should be deleted.
8. NDSOS supports legislation that would allow school boards to increase property taxes by a maximum of three percent each year after reaching the millage cap. State foundation aid should be founded on a broad-based, stable state supported system that insures basic education standards for all students no matter where they may live. These elements should be a part of any plan:
 - * 70% of the cost of education should be met by the state foundation aid program.
 - * There should be no increase in the millage deduct until the state reaches a level of funding that equals or exceeds 70% of the statewide average cost of education. The value of all local tax-abated real property should be included in the calculation for state foundation aid entitlements.
 - * All sources of wealth should be included in the calculation for state foundation aid entitlements.
 9. While recognizing the importance of the Americans with Disabilities Act, handicapped access requirements, fire and life safety codes and other state and federal mandates, schools should be given a reasonable time to comply with these provisions in areas that are not inordinately hazardous. School districts should be able to obtain loan funds from state construction fund and other sources on a long-term, low-interest rate basis to meet these costs.
 10. NDSOS opposes legislation that establishes charter schools or voucher systems or tax credits for private schools.
 11. Section 15.1-09-33.1, N.D.C.C., passed by the 2003 Legislative Assembly, now permits school districts to pay a signing bonus to teachers. This important legis-

Information Related to School Board Representation in Reorganized School Districts (HB 1305)

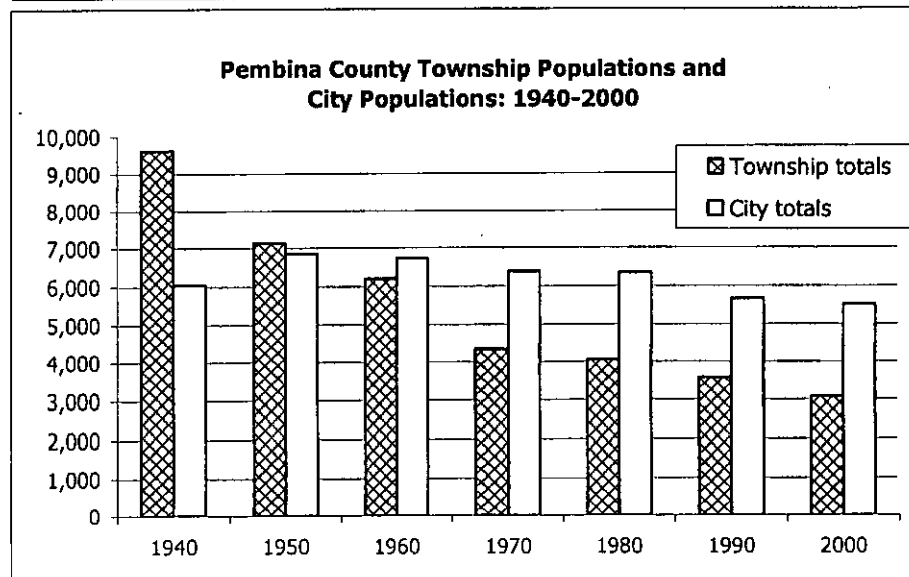
Testimony Presented to the House Education Committee to Support HB 1305

Dr. Don Piper (January 29, 2007)

As we work with school districts planning for reorganization across North Dakota, we have identified a continuing problem related to the requirement for "rural" members on school boards. We hope that the Legislature will be able to help solve this problem.

Rural populations are declining dramatically. Over the past six decades the **rural** townships of Pembina County have lost more than two-thirds of their population. In 1940 the 24 rural townships had a total population of 9,621 people; in 2000 that number had declined to 3,071 people even though during that same period the populations in the cities in the county had remained relatively stable. In addition to the overall decline in the rural populations, the rural residents also have been aging at a dramatic rate. Many older people tend not to have children in school and tend not to want to serve on school boards. This significant and continuing decline in the rural areas has had a significant negative effect on the ability of school districts to find appropriate and willing rural members to serve on school boards.

Years	1940	1950	1960	1970	1980	1990	2000
Township totals	9,621	7,135	6,209	4,339	4,055	3,572	3,071



Many available and willing candidates cannot run for the school board. The number of people who continue farming but move into town is increasing. According to the law, such people who serve on school boards cannot be considered to be "rural" board members even though they clearly are farmers. I am aware of a situation in which a young school board member and his brother farm 3,000 acres in central North Dakota. Because there is not a sufficient residence for the man and his family to live on the farm, he bought a house in town. Therefore, he cannot be counted as a "rural" member of the board, and the board must seek still another "rural" board member to fulfill the requirement that the majority of the board be "rural" members.

Some farmers who are available and willing to become board candidates move into town so that their children do not have to ride long distances on the school bus. By doing this, they become ineligible to fill "rural" positions on the school board.

A fairly large district with which I work needed to fill two rural positions on the school board. **No one** ran for either of the positions. One position was filled by a write-in candidate who received only 8 votes; the other position was filled by a write-in candidate who received only 32 votes. Is this really appropriate representative democracy when there were a number of people in the town of nearly 1,500 persons who would have been willing to run but could not because they were not "rural" candidates?

Districts that are reorganizing have an even more complicated problem. Many reorganized districts decide to have a seven-member board. In every situation in which I have worked, the planning committees, the existing school boards, and the voters of the districts want to be sure that each of the former districts (usually two or three districts) has significant representation on the new board. They seem to have little difficulty writing these provisions into their reorganization plans. However, they also then must assure that a majority of that board (at least four of the seven members) will be "rural" members. Not only are these "rural" members VERY difficult to find, but merging such provisions with the desire to have former-district representation is VERY difficult operationally.

Samples of board representation from two reorganization plans are listed below.

Sample A: The school board will consist of seven members with two members elected from the former _____ District, two from the former _____ District, two from the former _____ District, and one member elected at large. Although two members will be elected from each of the former geographic districts, all school board candidates will be voted on at large by all voters throughout the new _____ District. Members will serve three-year terms. In the initial election, the at-large member will be elected to a three-year term and, by a drawing of lots, two of the other members will serve a one-year term, two will serve a two-year term, and two will serve a three-year term. In the drawing of lots, a process will be used to assure that the two representatives of each component district will serve terms of differing ending times so that both of their successors will not be elected in the same year.

Sample B: The school board will consist of seven members with three elected at large from the former _____ District, two elected at large from the former _____ District, and two elected at large from anywhere in the whole new district. All school board candidates in all three categories will be voted on by all voters throughout the new district. Members will serve three-year terms. In the initial election, the at-large members will be elected to a one-year or a three-year term; the _____ members will be elected to a one-year or two-year or three-year term; and the _____ members will be elected to a two-year or three-year term. The respective terms will be determined by a drawing of lots in each of the categories after the school board election is completed.

These provisions, which planners and voters believe in adamantly, then must be worked out in such a way that the majority of these board members qualify as "rural" members. A careful reading of these provisions will show that matching them with the "rural" members requirement is very difficult.

Members of a reorganized district should be able to define the board representation that they want.

Reorganized school districts are newly created entities that usually are planned and developed by a long and comprehensive process (usually nearly a year). Broad-based planning committees (often including 50 or more local citizens) develop the plan, each of the existing school boards approves the plan, the county reorganization committees approve the plan, the North Dakota State Board of Public Education approves the plan, and the voters in EACH of the districts approve the plan by a majority vote in EACH of the districts. With all of this lengthy and careful planning and review and approval at every level, surely the decision of the people should be the determining factor in defining their board representation. We already have established precedent for allowing voters in reorganized districts to make arrangements that will insure the success of their districts. NDCC 15.1-12-10 indicates that, "... tax levies submitted to and approved by the state board as part of a reorganization plan are not subject to mill levy limitations otherwise provided by law" (sec. 1.o).

We hope that you will be able to give a strong **DO PASS** to HB 1305 and permit the people in the reorganized school districts of North Dakota to have the type of school board representation that they want and believe that they need to make their newly formed school districts operate successfully.

North Dakota State Data Center

North Dakota's Official Source of Population and Economic Statistics

North Dakota's population grew only slightly over the past decade. Data from the 2000 Census indicate that the state grew by 0.5 percent between 1990 and 2000 reaching a population base of 642,200. This is the smallest relative growth of all 50 states. Beginning in 2000, Census Bureau estimates indicate that North Dakota's population declined annually, reaching 633,051 in 2003. The July 1, 2004 population estimate of 636,308 reflected the first annual increase in North Dakota's population since Census 2000. In 2005, the population grew to 636,677, an increase of 369 people from the year before.

Three leading trends are seen to influence the state's future population and comprise the underlying assumptions used to project future county populations within North Dakota: 1) rural depopulation, 2) out-migration of young adults and young families, and 3) an increasing proportion of elderly.

1. Rural Depopulation

Decades of movement of rural residents to the larger cities have depopulated much of North Dakota. This trend of residential consolidation in North Dakota is very similar to that occurring throughout the Great Plains. In the last decade, population growth occurred largely in the metropolitan and Native American reservation counties of the state. In fact, only six of the state's 53 counties grew between 1990 and 2000 (20 percent in Cass, 15 percent in Burleigh, 8 percent in Sioux, 7 percent in Rolette, 7 percent in Morton, and 2 percent in Ward). The long-term trend of net out-migration is expected to continue. Thus, the majority of counties will continue to lose population. Currently, more than half of the 53 counties in the state have a population base below 5,000 residents. By 2020, nearly half of the counties will have a population base below 4,000 residents.

2. Out-Migration of Young Adults and Young Families

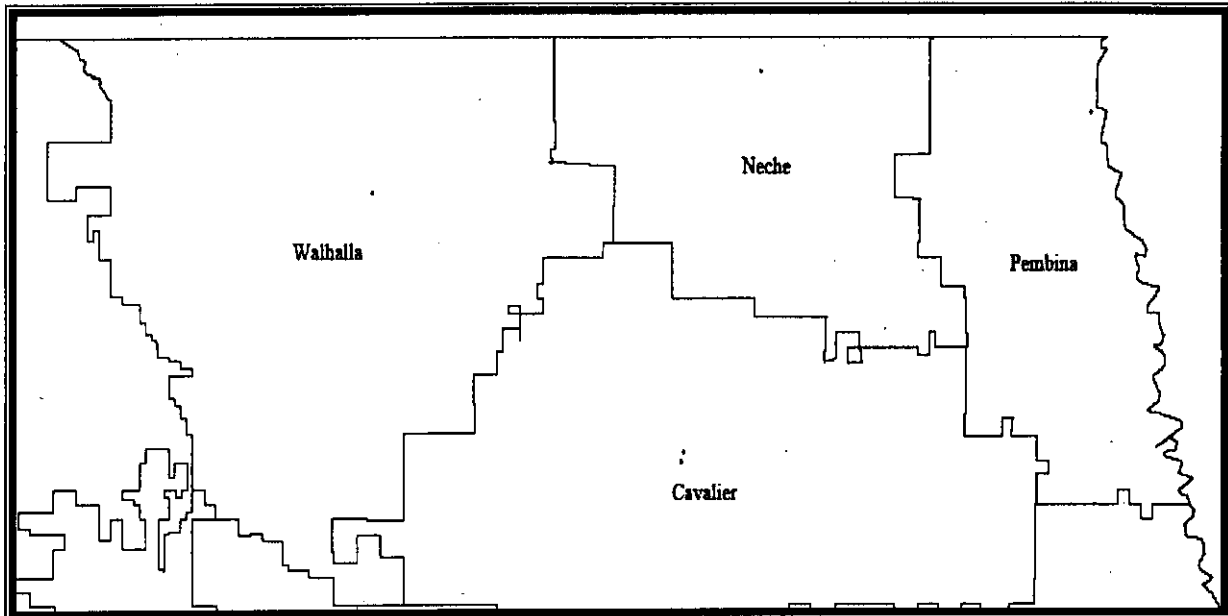
In addition to the general trend of rural depopulation, another significant pattern that will have a major consequence on the future of the state's population is the out-migration of young adults and young families. The loss of residents in their twenties and early thirties has increased markedly over the past two decades. This trend has created an age imbalance that is very evident in the population pyramids. The loss of young adults means that there will be fewer parents of childbearing age and therefore fewer children. As a result, the number of children will consistently decline for the majority of counties over the next 20 years.

A historical analysis of birth records indicates a steady decline in North Dakota births throughout the 1990s. In 1987, there were 10,303 births in North Dakota. This number dropped to a low of 7,635 in 1999. However, beginning in 2002, the number of births began to increase, and in 2005, the North Dakota Department of Health reported 8,179 births. At first glance, it may seem that this increase in births is due to a reversal of the out-migration of young adults/families trend. However, the increase in births is most likely attributable to an age-cohort "bulge" phenomenon referred to as the "echo of the echo of the baby boomers" - that is, a larger number of women (a reflection of being the children, or "echo," of the baby-boomers) are currently in child-bearing years and are having children themselves (i.e., the "echo of the echo"). The upward trend in births will more than likely stabilize or decline once again when this group of adults ages past typical child-bearing age.

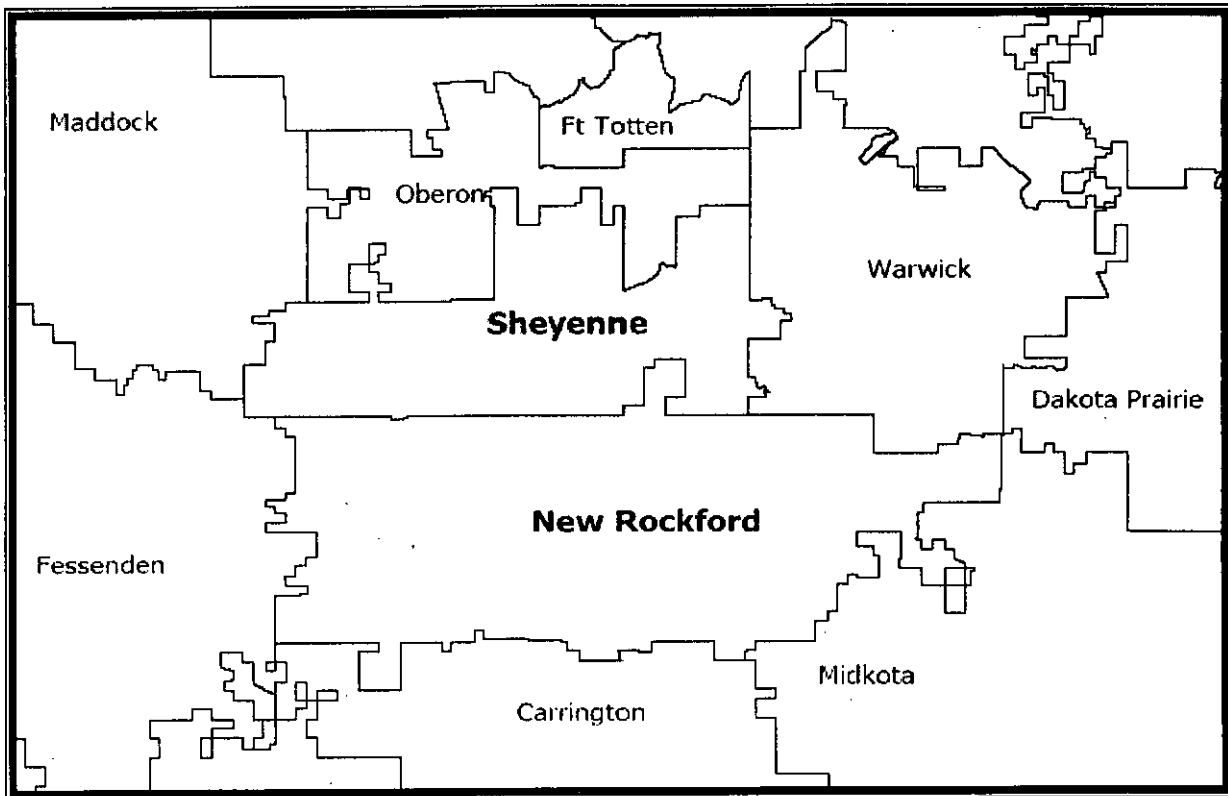
3. Increasing Proportion of Elderly

Another noteworthy trend is the increasing proportion of elderly (age 65 and older). In 1980, 12.3 percent of the state's population base was age 65 or older; in 2000, the proportion had increased to 14.7 percent. In addition, 27 of the state's 53 counties had more than 20 percent of their population base older than 64 in 2000. Nationally, the proportion of elderly is only 12.4 percent. In addition, North Dakota has the highest proportion in the nation of elderly 85 years and older. These high proportions of elderly are due, in part, to a modest net in-migration of seniors who are returning to the state to be close to family and friends. Elderly desiring to return to informal care networks, already a growing trend in population redistribution, will contribute to dramatic increases as the baby-boom population ages. If current trends continue, the number of elderly in the state will grow by 58 percent over the next 20 years and represent nearly 23 percent of the state's population. In addition, the number of older seniors (i.e., 85 years of age and older) will grow by nearly two-thirds during that time frame.

**Neché School District No. 55
Pembina School District No. 1
Walhalla School District No. 27**



**New Rockford Public School District No. 1
Sheyenne Public School District No. 12**



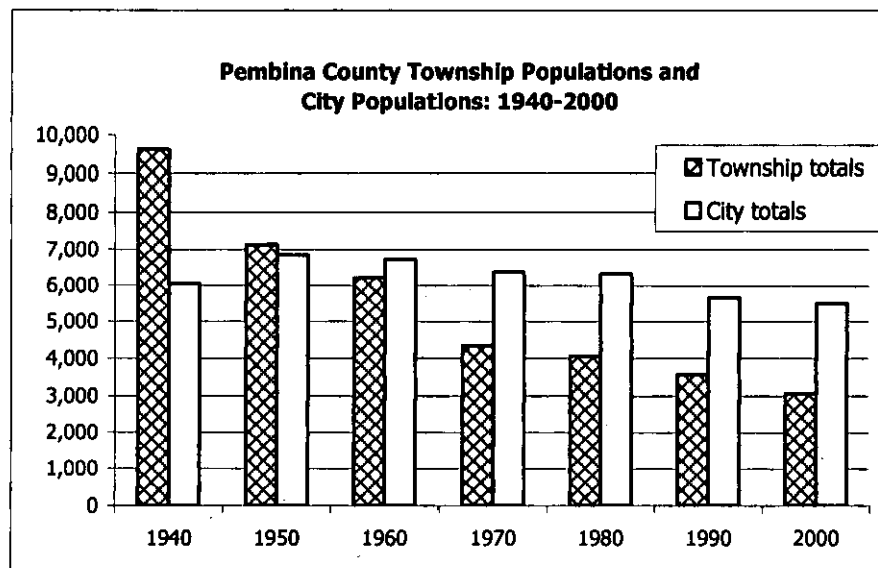
School Board Representation in Reorganized School Districts

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Sample of a school board representation policy from a three-district reorganization plan.

The school board will consist of seven members with two members elected from the former _____ District, two from the former _____ District, two from the former _____ District, and one member elected at large. Although two members will be elected from each of the former geographic districts, all school board candidates will be voted on at large by all voters throughout the new _____ District. Members will serve three-year terms. In the initial election, the at-large member will be elected to a three-year term and, by a drawing of lots, two of the other members will serve a one-year term, two will serve a two-year term, and two will serve a three-year term. In the drawing of lots, a process will be used to assure that the two representatives of each component district will serve terms of differing ending times so that both of their successors will not be elected in the same year.

These provisions, which planners and voters believe in adamantly, then must be worked out in such a way that the majority of these board members qualify as "rural" members. A careful reading of these provisions will show that matching them with the "rural" members requirement is very difficult.

Voters of a reorganized district should be able to define the board representation that they want.

Reorganized school districts are newly created entities that usually are planned and developed by a long and comprehensive process (usually nearly a year). Broad-based planning committees (often including 50 or more local citizens) develop the plan, each of the existing school boards approves the plan, the county reorganization committees approve the plan, the North Dakota State Board of Public Education approves the plan, and the voters in EACH of the districts approve the plan by a majority vote in EACH of the districts. With all of this lengthy and careful planning and review and approval at every level, surely the decision of the people should be the determining factor in defining their board representation. We already have established precedent for allowing voters in reorganized districts to make arrangements that will insure the success of their districts. NDCC 15.1-12-10 indicates that, "... tax levies submitted to and approved by the state board as part of a reorganization plan are not subject to mill levy limitations otherwise provided by law" (sec. 1.o).

We hope that you will be able to give a strong **DO PASS** to **HB 1305** and permit the people in the reorganized school districts of North Dakota to have the type of school board representation that they want and believe that they need to make their newly formed school districts operate successfully.