

2021 HOUSE POLITICAL SUBDIVISIONS

HB 1337

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB1337
1/28/2021
House Political Subdivisions

Relating to the authority of a school district to transfer funds from the building fund to another political subdivision; relating to the powers of a school board

Chairman Dockter: (10:30). Opened the hearing.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Vote of patrons
- Reorganization of school districts

Rep. D. Johnson: Introduced the bill.

Michael Heilman, Director of the North Dakota Small Organized Schools: (10:35). In favor (Testimony #3923).

Dr. Amiee Copas: In favor, no written testimony.

Frank Schill, Superintendent Edmore Public School: In favor (testimony #3121).

Chairman Dockter: (11:01) Closed the hearing.

Carmen Hickle, Committee Clerk by Anna Fiest



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HB 1337 – Related to allowing school districts transferring of real property and funds

Testimony in support

Michael Heilman – Executive Director North Dakota Small Organized School

January 27, 2021

Chairman Dockter and members of the House Political Subdivisions Committee, my name is Michael Heilman. I am the Executive Director of the North Dakota Small Organized Schools (NDSOS). I represent 154-member school districts of the North Dakota Small Organized Schools. NDSOS stands in support of HB 1337.

As you have heard or will hear, we have several small communities across the state whose schools are dealing with declining enrollments. Unfortunately, this is not new to the landscape of North Dakota and rural schools. Many of these schools are known in the funding formula as transition minimum schools. Transition minimum schools were held harmless to a funding amount within the current funding formula enacted during the 2013 session. Along with declining enrollment many of the schools will see a decrease in funding as the transition minimum dollars are reduced over time. Some will continue to operate if they have adequate student numbers, other will have to make the difficult decision about closing and dissolution.

This bill provides communities with an option to maintain a structure that served generations of students for a useful purpose. Allowing the school district to work with another political subdivisions to preserve the school as a community center, senior center, or other community use seems like a win for our rural communities. Rather than allowing these structures to fall into ruin, this bill gives communities a viable option to maintain and continue to use a structure that served them well and can continue to do so in a different manner. NDSOS supports of HB 1337.

Thank you Chairman Dockter and member of the House Political Subdivisions Committee. I would stand for any questions.

Mr. Michael Heilman – Executive Director
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Board of Directors

Region 1

Mr. Tim Holte, Supt. Stanley
Mr. John Gruenberg, Supt. Powers Lake

Region 2

Mr. Jeff Hagler, Supt. North Star
Mr. Steven Heim, Anamoose & Drake

Region 3

Dr. Frank Schill, Supt. Edmore
Mr. Dean Ralston, Supt. Drayton

Region 4

Mr. Kelly Koppinger, Supt. New England
Mr. Justin Fryer, Supt. Solen

Region 5

Mr. Joel Lemer, Bd. Member Carrington
Mr. Brandt Dick, Supt. Underwood

Region 6

Mr. Mitch Carlson, Supt. LaMoure
Dr. Steven Johnson, Supt. Lisbon

The mission of NDSOS is to provide leadership for the small/rural schools in North Dakota and to support legislation favorable to their philosophy while opposing legislation that is harmful.

Testimony
House Bill 1337
1/28/2021 – 10:30 am – 327B
House Political Subdivisions Committee
By Frank Schill
Superintendent of Edmore Public School

Chairman Dockter, Members of the Political Subdivisions Committee:

I am Frank Schill, Superintendent of Edmore Public School. I am here to testify in favor of HB 1337 thus giving authority to a local school district the ability to transfer funds to another political subdivision and to sell real property for less than fair market value.

As the Edmore school district continues to experience declining enrollment the school board has directed me to explore options for the board and community to consider if and when the school district nears solvency. The Edmore school board contacted Representative Johnson to seek an Attorney General's opinion clarifying the authority of a local school board regarding the sale of real property and transferring of funds to another political subdivision. The Attorney rendered an opinion (attachment #1). This decision led to the introduction of HB1337 requesting that the North Dakota legislative body consider amending present century code to allow a local school district additional flexibility with regards to the use of district assets.

At the present time, North Dakota century code allows for two options when a community determines that it is time for their school to close.

One option is for a community to reorganize with a neighboring school district whose boundaries are contiguous. Present century code (15.1-12-7) relating to reorganizations allows for the sale of real property from one district to another public entity for less than market value. Century code also allows for details to be outlined in the reorganization plan of the newly organized school district to maintain and keep open facilities listed in the plan, but the newly formed school board is only obligated to follow the details of the plan for up to five years. Century code does not allow for the transference of monies from the building fund of the school district to another political subdivision through the use of a Joint Powers Agreement.

The second option is for a community to dissolve the school district. Century code (15.1-12-27) does not allow for the sale of real property from one district to political subdivision for less than market value and does not allow for the transference of monies from the building fund of the school district to another political subdivision through the use of a Joint Powers Agreement.

By allowing for the sale of real property and the transferring of building funds to another political subdivision to be used expressly for the real property the dissolving district and community would have the ability to utilize the building for a community center for a period of time. It would also allow, if necessary, the ability to demolish a portion or the entire building if it is deemed necessary.

I would suggest two amendments be added:

1. Place a cap of no more than \$500,000 from the building fund that can be transferred, through the use of a Joint Powers agreement to another political subdivision.
2. The plan to sell the building for less than market value and transfer funds be approved by the majority vote of the district patrons.

The passing of HB1337 would provide additional local control for district patrons while they make the tough decisions regarding the closure of their school and the future of their community.

Thank you for the opportunity to submit this testimony. If I can respond to any questions, or if I can provide any more information that may be useful to you, I would be most happy to do so.

Attachment #1

**LETTER OPINION
2020-L-07**

September 23, 2020

The Honorable Dennis Johnson
House of Representatives District 15
7871 45th St NE
Devils Lake, ND 58301-9089

Dear Representative Johnson:

Thank you for your letter asking about distribution of school district property and funds as a part of a dissolution¹ or reorganization.² For the reasons below, it is my opinion that a political subdivision may enter into a Joint Powers Agreement (JPA) to exercise powers that belong to one of the political subdivisions; a school board may not sell a building to a political subdivision for less than its fair market value as a part of a dissolution; and moneys in a school's building fund may only be utilized or transferred as allowed by N.D.C.C. § 57-15-17.

ANALYSIS

Validity of the proposed Joint Powers Agreement

In your opinion request, you explain:

The Edmore Public School District is considering options in the event of dissolution or reorganization. Upon dissolution/reorganization or just prior to, the School District and the City are contemplating entering into a Joint Powers Agreement (JPA), whereby the School District gives the school building and property to the City to use as a community building.³

¹ "Dissolution" means the process through which a school district ceases to function and the subsequent attachment of its real property to other school districts. N.D.C.C. § 15.1-12-01(3).

² "Reorganization" means the formation of a new school district through the combination, in whole or in part, of two or more school districts. N.D.C.C. § 15.1-12-01(4).

³ Letter from Dennis Johnson, Rep., Dist. 51, to Wayne Stenehjem, N.D. Att'y Gen. (Feb. 25, 2020).

It is well-established that a donation by one political subdivision to another is not prohibited by N.D. Const. Art. X, § 18, but the political subdivision must also have statutory authority to donate the moneys or real property to another political subdivision.⁴

Section 54-40.3-01, N.D.C.C., states:

Any county, city, township, city park district, school district, or other political subdivision of this state, upon approval of its respective governing body, may enter into an agreement with any other political subdivision of this state for the cooperative or joint administration of any power or function that is authorized by law or assigned to one or more of them.⁵

Therefore, in order for a school board to sell or donate real property to a city for less than fair market value under a JPA, either the city or the school board must have the statutory authority to donate or sell the real property for less than fair market value.

The existence and extent of the authority of a school board are strictly construed.⁶ School boards have only the powers expressly granted by statute and the powers necessarily implied therefrom with which to carry out the specific grant of authority.⁷ The board of a school district has statutory authority to discontinue schools and liquidate the assets of the district as required by law, and to purchase, sell, exchange, and improve real property.⁸ "[A] school district may not give or sell property at less than the fair market value⁹ [W]hen exercising its authority under N.D.C.C. § 15.1-09-33(5) and (6), a school district must sell real property at fair market value."¹⁰ As a part of a reorganization, a school district may sell real property at less than fair market value to another political subdivision if the requirements of N.D.C.C. § 15.1-12-19 are met.

⁴ See N.D. Const. art. X, § 18; N.D.A.G. 99-F-14; Letter from Nicholas Spaeth, Att'y Gen., to Eugene Belisle, Mayor, Riverdale (Apr. 7, 1992); N.D.A.G. 83-17.

⁵ N.D.C.C. § 54-40.3-01(1).

⁶ *Myhre v. Sch. Bd. of N. Cent. Pub. Sch. Dist. No. 10*, 122 N.W.2d 816 (N.D. 1963); N.D.A.G. 2000-L-13; N.D.A.G. 93-L-230.

⁷ *Fargo Educ. Ass'n v. Fargo Pub. Sch. Dist. No. 1*, 291 N.W.2d 267 (N.D. 1980); N.D.A.G. 2000-L-13; N.D.A.G. 95-L-71; N.D.A.G. 94-L-287.

⁸ N.D.C.C. § 15.1-09-33(5), (6).

⁹ Fair market value is a question of fact and cannot be determined by this opinion. Certain factors, such as lack of market in rural areas or large expenses in maintaining the building could be considered and affect the fair market value.

¹⁰ N.D.A.G. 2010-L-03; N.D.A.G. 2000-L-13 (citing *Herr v. Rudolf*, 25 N.W.2d 916 (N.D. 1947)).

No statutory authorization exists for a school board to sell real property at less than fair market value as a part of dissolution, however. The language of N.D.C.C. § 54-40.3-01 only requires that one of the parties to the JPA have the statutory authority to take the action that is the subject of the JPA.¹¹ Although cities have authority to sell, lease, or dispose of land pursuant to statute, there is no statutory authority for a city to donate or deviate from the procedures regarding sale of real property.¹²

A city may deviate from the limitations and procedures regarding sale of real property set forth in Century Code if the city becomes a home rule city pursuant to N.D.C.C. ch. 40-05.1 and adopts the power to "acquire, hold, operate, and dispose of property within or without the corporate limits."¹³ A city may also control its finances and fiscal affairs, and make certain donations, if these powers are listed in the home rule charter and appropriately implemented through ordinances.¹⁴ I am not aware of whether Edmore is a home rule city.

Therefore, if neither political subdivision party to a JPA has statutory or home rule authority to donate or sell real property at less than fair market value, it is my opinion that a school board may not sell or donate property at less than fair market value to a city as a part of a dissolution of a school district through a JPA, but a school board does have statutory authority to sell or donate property at less than fair market value as a part of a reorganization.

Building Funds

You also ask whether a school district may transfer money out of its building fund to a city to use towards future utilities and maintenance costs associated with a building.

Use and disposition of a school district building fund is governed by N.D.C.C. § 57-15-17. Section 57-15-17(1)(b), N.D.C.C., states:

¹¹ N.D.C.C. § 54-40.3-01(1); N.D.A.G. 2005-L-35; N.D.A.G. 2002-F-03; N.D.A.G. 98-L-192; N.D.A.G. 95-L-115; N.D.A.G. 94-F-02; N.D.A.G. 94-L-258; N.D.A.G. 93-L-190; N.D.A.G. 93-F-23.

¹² See N.D.C.C. § 40-11-04 ("When the property to be disposed of is estimated by the governing body of the municipality to be of a value of less than two thousand five hundred dollars, the property may be sold at private sale upon the proper resolution of the governing body. In all other cases, the property may be sold only at public sale or as provided under section 40-11-04.2."); see also N.D.C.C. §§ 40-11-04.1, 40-11-04.2, 40-57-03(12), 40-58-13(2), 40-61-05(5).

¹³ N.D.C.C. § 40-05.1-06(1). The city would also have to adopt an implementing ordinance in order to exercise this power.

¹⁴ N.D.C.C. § 40-05.1-06(2), (16).

- b. Moneys in the building fund *may only be used for*:
- (1) The construction of school district buildings and facilities;
 - (2) The renovation, repair, or expansion of school district buildings and facilities;
 - (3) The improvement of school district buildings, facilities, and real property;
 - (4) The leasing of buildings and facilities;
 - (5) The payment of rentals upon contracts with the state board of public school education;
 - (6) The payment of rentals upon contracts with municipalities for career and technical education facilities financed pursuant to chapter 40-57; and
 - (7) The payment of principal, premiums, and interest on bonds issued in accordance with subsection 7 of section 21-03-07.¹⁵

The language of this statute clearly indicates that the only uses for the building fund are those specifically listed in N.D.C.C. § 57-15-17(1)(b). Utilities and maintenance costs for the building after it is transferred to the city, as proposed, are not listed within the uses permitted under N.D.C.C. § 57-15-17(1)(b). While “renovation, repair, or expansion” and “improvement” are listed as permitted uses, these are noted specifically for “school district buildings, facilities, and real property.”¹⁶ If a school board were to transfer the building to a city, the building would no longer be a “school district building” and the use of funds for renovation, repair, improvement, or expansion would no longer be authorized by statute. Where the wording of a statute is “clear and free of all ambiguity,” the letter of the law is not to be disregarded.¹⁷ The list provided in N.D.C.C. § 57-15-17(1)(b) is an exclusive list of the permissible uses for building funds. For these reasons, it is my opinion that a school building fund may only be utilized for the future utilities and maintenance of a building that is transferred to a city if the proposed uses fall within the allowable uses delineated in N.D.C.C. § 57-15-17(1)(b).

A school board may, in some factual scenarios contemplated by statute, pay building fund moneys into a school’s general fund,¹⁸ which may be used for any legitimate purpose related to educational services.¹⁹ Whether a school board’s building fund meets those statutory requirements is a question of fact which cannot be determined in a legal opinion of the

¹⁵ N.D.C.C. § 57-15-17(1)(b) (emphasis added).

¹⁶ See N.D.C.C. § 57-15-17(1)(b)(2), (3).

¹⁷ N.D.C.C. § 1-02-05.

¹⁸ N.D.C.C. § 57-15-17(2), (3), (4).

¹⁹ N.D.C.C. § 57-15-14.2(1); *Peterson v. McKenzie Cnty. Pub. Sch. Dist. No. 1*, 467 N.W.2d 456 (N.D.1991).

Attorney General. Accordingly, to the extent that this presents a question of fact, I must decline to express an opinion as to whether the building fund in the scenario you present meets the statutory requirements to be properly transferred to the school's general fund.

CONCLUSION

Therefore, it is my opinion that a school board may sell real property at less than fair market value as a part of a reorganization pursuant to N.D.C.C. § 15.1-12-19, but in the case of a dissolution, a school board lacks statutory authority to sell real property at less than fair market value, or donate property, and that school building funds may only be utilized for the purposes outlined in N.D.C.C. § 57-15-17(1)(b).

Sincerely,

Wayne Stenehjem
Attorney General

amh

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.²⁰

²⁰ See *State ex rel. Johnson v. Baker*, 21 N.W.2d 355 (N.D. 1946).

2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1337
2/4/2021

Relating to the authority of a school district to transfer funds from the building fund to another political subdivision; relating to the powers of a school board

Chairman Dockter: (6:10). Opened for committee work.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	A
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Discussion Topics:

- Purchase, sell exchange and improve property

Rep. Longmuir: Made a do pass motion.

Rep. Johnson: Second the motion.

Representatives	Vote
Representative Jason Dockter	Y
Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y
Representative Sebastian Ertelt	N
Representative Clayton Fegley	N
Representative Patrick Hatlestad	Y
Representative Mary Johnson	Y
Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y

Representative Dave Nehring	A
Representative Marvin E. Nelson	Y
Representative Luke Simons	N
Representative Nathan Toman	N

Motion carried 9-4-1

Rep. Johnson: Will carry the bill.

Chairman Dockter: (6:18): Adjourned.

Carmen Hickle, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1337: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1337 was placed on the Eleventh order on the calendar.

2021 SENATE EDUCATION

HB 1337

2021 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

HB 1337
3/10/2021

A BILL relating to the authority of a school district to transfer funds from the building fund to another political subdivision; relating to the powers of a school board.

Chair Schaible opened the hearing at 2:30 PM.

Discussion Topics:

- School dissolution
- Building and furniture/fixtures sale
- Community maintenance of vacated school

Senator	Attendance
Chairman Schaible	P
Senator Elkin	P
Senator Conley	P
Senator Lemm	P
Senator Oban	P
Senator Wobbema	P

Rep Dennis Johnson – introduced the bill.

Deanna Larson, St. Thomas – testified via Zoom in support #8443

Michael Heilman, Dir Small Organized Schools – testified in support #8518

Frank Schill, Supt, Edmore School – testified in support #8317

Adam Tescher – DPI Finance Officer– testified neutral

Additional written testimony:

Elizabeth Thompson – support #8478

Dr Aimee Copas – support #8511

Lance Christinson – support #8550

Mitchell Sanderson – opposed #8395

Adjourned at 3:03 PM

Lynn Wolf, Committee Clerk

Regarding HB 1377

I am very much in support of this bill, I believe the building funds dollars should be in control of the City of St. Thomas (Pembina County) vs. going to Grafton- Walsh county. Our committee to support this bill also has ideas of what we can bring into the community. The reorganization plan to Grafton District #18 does not recognize the ST/St. Thomas name. The City would not be able to keep part or all of the school open for other businesses if Grafton tears it down. With a school building and name, it is like we don't exist. We need some of this building open to our kids and families to go in summer and especially winter. Please support this bill.



North Dakota Small Organized Schools

#8518

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HB 1337 – transferring of real property and funds

Testimony in support

Michael Heilman – Executive Director North Dakota Small Organized School

January 27, 2021

Chairman Schaible and members of the Senate Education Committee, my name is Michael Heilman. I am the Executive Director of the North Dakota Small Organized Schools (NDSOS). I represent 154-member school districts of the North Dakota Small Organized Schools. NDSOS stands in support of HB 1337.

As you have heard or will hear, we have several small communities across the state whose schools are dealing with declining enrollments. Unfortunately, this is not new to the landscape of North Dakota and rural schools. Many of these schools are known in the funding formula as transition minimum schools. Transition minimum schools were held harmless to a funding amount within the current funding formula enacted during the 2013 session. Along with declining enrollment many of the schools will see a decrease in funding as the transition minimum dollars are reduced over time. Some will continue to operate if they have adequate student numbers, other will have to make the difficult decision about closing and dissolution.

This bill provides communities with an option to maintain a structure that served generations of students for a useful purpose. Allowing the school district to work with another political subdivisions to preserve the school as a community center, senior center, or other community use seems like a win for our rural communities. Rather than allowing these structures to fall into ruin, this bill gives communities a viable option to maintain and continue to use a structure that served them well and can continue to do so in a different manner. NDSOS supports HB 1337.

Thank you Chairman Schaible and member of the Senate Education Committee. I would stand for any questions.

Mr. Michael Heilman – Executive Director
North Dakota Small Organized Schools
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Testimony
House Bill 1337
3/10/2021 – 2:30 pm– 216
Senate Education Committee
By Frank Schill
Superintendent of Edmore Public School

Chairman Schaible, Members of the Senate Education Committee:

I am Frank Schill, Superintendent of Edmore Public School. I am here to testify in favor of HB 1337 thus giving authority to a local school district the ability to transfer funds to another political subdivision and to sell real property for less than fair market value.

As the Edmore school district continues to experience declining enrollment the school board has directed me to explore options for the board and community to consider if and when the school district nears insolvency. The Edmore school board contacted Representative Johnson to seek an Attorney General's opinion clarifying the authority of a local school board regarding the sale of real property and transferring of funds to another political subdivision. The Attorney General rendered an opinion (attachment #1). This decision led to the introduction of HB1337 requesting that the North Dakota legislative body consider amending present century code to allow a local school district additional flexibility with regards to the use of district assets.

At the present time, North Dakota century code allows for two options when a community determines that it is time for their school to close.

One option is for a community to reorganize with a neighboring school district whose boundaries are contiguous. Present century code (15.1-12-7) relating to reorganizations allows for the sale of real property from one district to another public entity for less than market value. Century code also allows for details to be outlined in the reorganization plan of the newly organized school district to maintain and keep open facilities listed in the plan, but the newly formed school board is only obligated to follow the details of the plan for up to five years. Century code does not allow for the transference of monies from the building fund of the school district to another political subdivision through the use of a Joint Powers Agreement.

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By allowing for the sale of real property and the transferring of building funds to another political subdivision to be used expressly for the real property the dissolving district and community would have the ability to utilize the building for a community center for a period of time. It would also allow, if necessary, the ability to demolish a portion or the entire building if it is deemed necessary.

I would suggest two amendments be added:

1. Place a cap of no more than \$500,000 from the building fund that can be transferred, through the use of a Joint Powers agreement to another political subdivision.
2. The plan to sell the building for less than market value and transfer funds be approved by the majority vote of the district patrons.

The passing of HB1337 would provide additional local control for district patrons while they make the tough decisions regarding the closure of their school and the future of their community.

Thank you for the opportunity to submit this testimony. I can now stand for questions.

I write in support of Bill 1337 to allow school building funds to be transferred to our local city council. This will allow improvements to be made for the future use of the school building and will benefit our local community.



1 HB 1337 – NDCEL Testimony in Support

2 Senator Schaible, members of the Senate Education committee – for the record my name is Aimee
3 Copas serving as the Executive Director for NDCEL.

4 What is presented in this bill is a good thing for a community that is struggling in population to
5 the point of the school being ready to close. I've been there – as a superintendent in South Dakota,
6 our school did close due to declining population. That is one of the most difficult things that a
7 community experiences. It is devastating. In South Dakota, there is exists a law that is very similar
8 to what is described here which enabled that school to sell to the city the building for \$1, keep the
9 lights on, and the town was able to convert that building into a better community center for the
10 folks living there and even turned the classrooms into little opportunities for patrons to utilize them
11 for various things. One classroom was a thrift store, others were offered as office space to people
12 attempting to start small businesses. It was a blessing to the community – to those tax payers who
13 had made that building possible to begin with.

14 This bill is providing the opportunity for a community to either keep a building such as this a part
15 of their communities and utilize it, or to do whatever they think they might need to.

16 This bill is simple yet impactful and we ask that you support the concept.

17 Thank you!

To Whom It May Concern,

My name is Lance Christinson, I have been a resident of the City of St. Thomas my whole 57 years. I graduated from STPS in 1983. My brother and Sister graduated in '78 & '87. Our father was a business owner in S.T for 30 years in the 70's thru early 90's. My brother & I owned our own business in S.T. in the 80's to mid 90's. We paid our taxes to the city, county & state for many years and would like to see our taxes stay in our respected city & county!

I feel that our tax decisions should remain within our own city & county. Not in the hands of another school district or entity. As a member of the city council, I feel we have the trust & respect of our constituents to do the right thing for Our Community & our building. Leaving that authority to another power is just not right.

There is a different story every month we meet on what is going on with our building & where the funds have gone. Please pass Bill 1337 to ensure there another community will be able to make their own decision's in the future.

Lance Christinson, St. Thomas

Senator,

If any property is transferred to another political subdivision that subdivision should pay for any upkeep on them **NOT, the school systems budget!**

Thank you,

Mr. Mitchell S. Sanderson

2021 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

HB 1337
3/16/2021

A BILL relating to the authority of a school district to transfer funds from the building fund to another political subdivision; relating to the powers of a school board.

Chair Schaible called to order at 2:37 PM

Discussion Topics:

- School District Dissolution
- Division of District Assets
- State Board of Public Education
- Job Service
- Unemployment claims

Senator	Attendance
Chairman Schaible	p
Senator Elkin	P
Senator Conley	P
Senator Lemm	P
Senator Oban	P
Senator Wobbema	P

Amy De Kok- ND School Board Assoc. – testified neutral

Adjourned at 2:53 PM

Lynn Wolf, Committee Clerk

2021 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

HB 1337
3/30/2021

A BILL relating to the authority of a school district to transfer funds from the building fund to another political subdivision; relating to the powers of a school board.

Called to order at 3:37 PM

Discussion Topics:

- Committee Work
- 21.0491.01002

Dustin Assel – L.C. legal - explained amendment

Sen Elkin moved amendment 21.0491.01002

Sen Conley seconded

Roll Call Vote: 6 –Yea; 0-Nay; 0-Ab Motion Passed

Sen Elkin moved a Do Pass as amended

Sen Lemm seconded

Roll Call Vote: 6 –Yea; 0-Nay; 0-Ab Motion Passed

Sen Schaible will carry the bill.

Adjourned at 3:47 PM

Lynn Wolf, Committee Clerk

Senator	Attendance
Chairman Schaible	P
Senator Elkin	P
Senator Conley	P
Senator Lemm	P
Senator Oban	P
Senator Wobbema	P

Amend 21.0491.01002	Vote
Chairman Schaible	Y
Senator Elkin	Y
Senator Conley	Y
Senator Lemm	Y
Senator Oban	Y
Senator Wobbema	Y

HB 1337	Vote
Chairman Schaible	Y
Senator Elkin	Y
Senator Conley	Y
Senator Lemm	Y
Senator Oban	Y
Senator Wobbema	Y

March 23, 2021

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3-1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1337

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 15.1-12-07, 15.1-12-26, and 15.1-12-27 of the North Dakota Century Code, relating to the transfer of property of dissolved school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-12-07 of the North Dakota Century Code is amended and reenacted as follows:


15.1-12-07. Transfer of real property upon annexation, reorganization, or dissolution.

The legal title to all real property owned by a school district and annexed to another school district, included in a reorganized district, or subjected to dissolution, vests in the board of the reorganized school district or of the district to which the property is annexed or attached on the effective date of the reorganization, annexation, or dissolution. If the reorganized district or district to which the property is annexed or attached includes less than the whole of the former district, legal title to the real property of the former district vests in the board of the school district in which the property is situated on the effective date of the reorganization, annexation, or dissolution. If the real property of a dissolved district is sold, exchanged, or donated to another political subdivision pursuant to section 15.1-12-27, legal title to the real property vests in the political subdivision to which the real property was sold, exchanged, or donated on the effective date of the dissolution. A certificate prepared by a licensed attorney, citing the legal description of the property and stating that the property has become annexed, attached, or reorganized with another school district, or sold, exchanged, or donated to another political subdivision, must be recorded in the office of the recorder of the county in which the property is located.

SECTION 2. AMENDMENT. Section 15.1-12-26 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-26. Dissolution of school district - Grounds.

1. A county committee shall initiate proceedings to dissolve a school district and attach the property to other operating high school districts in the same county, or to a non-high school district in the same county if there are no high school districts in the same county adjacent to the district being dissolved, when it is notified in writing by the county superintendent of schools whose jurisdiction includes the administrative headquarters of the district that:
 - a. The district is financially unable to effectively and efficiently educate its students;
 - b. The district has not operated a school as required by section 15.1-12-24; or

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- c. A school board has determined that dissolution is in the best interest of its students.
 2. Except as provided in subsection 3, a county committee shall initiate proceedings under section 15.1-12-27 to attach real property to an operating high school district in the same county, or to a non-high school district in the same county if there is no high school district in the same county adjacent to the district being dissolved, when it is notified in writing by the county superintendent that:
 - a. Real property has been severed from its school district by the expansion of a city and the severed portion is not contiguous with its district; or
 - b. There exists real property that does not belong to a school district.
 3. If a school district reorganization plan which does not include all real property in a district is approved by the electors, the county committee shall, within forty-five days after the election, hold a hearing under section 15.1-12-27 to attach the remaining property to one or more operating high school districts in the same county, or to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being dissolved.
 4. Subject to state board approval under section 15.1-12-27, a county committee that has initiated proceedings to dissolve a school district under this section may sell, exchange, or donate property or assets of the dissolving district to another political subdivision for less than fair market value provided the dissolving district has sufficient property and assets remaining to satisfy the requirements of sections 15.1-12-28 and 15.1-12-28.1.
 5. Receipt of notice by a county committee under this section:
 - a. Renders an annexation petition involving any real property in the district void, unless the annexation has already been approved by the state board; and
 - b. Prohibits the acceptance of a new annexation petition involving any real property in the district until all dissolution proceedings have been completed.
 - ~~5-6.~~ One or more annexation petitions may not be used to annex all of the real property in a school district to surrounding school districts.

SECTION 3. AMENDMENT. Section 15.1-12-27 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-27. Dissolution of school district - Notice - Hearing - Order of attachment.


1. The county superintendent shall schedule and give notice of a public hearing regarding the dissolution of the district and the subsequent attachment of the property to other high school districts in the same county, or to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being

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dissolved. The county superintendent shall publish the notice in the official newspaper of each county that encompasses property in the dissolving district and in the official newspaper of each county that encompasses property in a high school district adjacent to the dissolving district, or to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being dissolved, at least fourteen days before the date of the hearing. The county superintendent shall provide notice of the public hearing to the business manager of each high school district adjacent to the dissolving district, or to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being dissolved.

2. At the hearing, the board of the dissolving district may propose a particular manner of dissolution, including the sale, exchange, or donation of property and assets of the dissolving district to another political subdivision for less than fair market value.
3. The county committee shall consider testimony and documentary evidence regarding:
 - a. The value and amount of property held by the dissolving school district;
 - b. The amount of all outstanding bonded and other indebtedness;
 - c. The distribution of property and assets among the school districts to which the dissolved district is attached, or to another political subdivision as proposed by the dissolving district;
 - d. The taxable valuation of the dissolving district and adjacent school districts and the taxable valuation of adjacent school districts under the proposed manner of dissolution;
 - e. The size, geographical features, and boundaries of the dissolving district and of adjacent school districts;
 - f. The number of students enrolled in the dissolving district and in adjacent school districts;
 - g. Each school in the dissolving district and in adjacent school districts, including its name, location, condition, accessibility, and the grade levels it offers;
 - h. The location and condition of roads, highways, and natural barriers in the dissolving district and in adjacent school districts;
 - i. Conditions affecting the welfare of students in the dissolving district and in adjacent school districts;
 - j. The boundaries of other governmental entities;
 - k. The educational needs of communities in the dissolving district and in adjacent school districts;
 - l. Potential savings in school district transportation and administrative services;

- 4 of 4
- m. The anticipated future use of the dissolving districts' buildings, sites, and playfields;
 - n. The potential for a reduction in per student valuation disparities between the school districts to which the dissolved district is attached;
 - o. The potential to equalize or increase the educational opportunities for students from the dissolving district and for students in adjacent school districts; and
 - p. All other relevant factors.
4. After the hearing, the county committee shall make findings of fact. Subject to final approval by the state board, the county committee may order the district dissolved and its real property ~~attached~~ or assets:
- a. Attached to one or more contiguous, operating high school districts in the same county; ~~or~~;
 - b. Attached to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being dissolved; or
 - c. Sold, exchanged, or donated to another political subdivision for less than fair market value provided the dissolving district has sufficient property and assets remaining to satisfy the requirements of sections 15.1-12-28 and 15.1-12-28.1.
5. Any property ordered attached to other school districts under this section must have at least one minor residing within its boundaries.
6. The county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the dissolution proceeding together with a copy of the county committee's order to the state board for final approval of the dissolution. The state board shall publish notice of its meeting at which it will consider the dissolution, in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the meeting.
7. The order of dissolution becomes effective July first following approval by the state board, unless the county committee provides for a different effective date.
8. If the boundaries of the dissolving school district cross county lines, the proceeding to dissolve the district must be conducted jointly by the county committees representing counties containing twenty-five percent or more of the dissolving district's taxable valuation. If, after the hearing, a majority of the county committees are unable to agree upon an order of dissolution and attachment, the county superintendent of the county in which the administrative headquarters of the dissolving school district is located shall notify the state board. The state board shall conduct a public hearing, as required in this section, and order the dissolution of the district and the attachment of its real property to adjacent school districts in the manner it deems appropriate. The state board shall publish notice of the public hearing in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the date of the hearing.

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9. If any portion of the order providing for the attachment of real property is suspended or voided, the order of dissolution is likewise suspended or voided.
 10. The state board shall provide a copy of its final findings of fact, conclusions of law, and order regarding the dissolution to job service North Dakota. If not otherwise included in the findings of fact, the state board shall also provide job service North Dakota with information on the distribution and valuation of property from the dissolving district to the receiving districts."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1337: Education Committee (Sen. Schaible, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1337 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 15.1-12-07, 15.1-12-26, and 15.1-12-27 of the North Dakota Century Code, relating to the transfer of property of dissolved school districts.

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 - c. A school board has determined that dissolution is in the best interest of its students.
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county adjacent to the district being dissolved, when it is notified in writing by the county superintendent that:

- a. Real property has been severed from its school district by the expansion of a city and the severed portion is not contiguous with its district; or
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3. If a school district reorganization plan which does not include all real property in a district is approved by the electors, the county committee shall, within forty-five days after the election, hold a hearing under section 15.1-12-27 to attach the remaining property to one or more operating high school districts in the same county, or to non-high school districts in the same county if there are no high school districts in the same county adjacent to the district being dissolved.
 4. Subject to state board approval under section 15.1-12-27, a county committee that has initiated proceedings to dissolve a school district under this section may sell, exchange, or donate property or assets of the dissolving district to another political subdivision for less than fair market value provided the dissolving district has sufficient property and assets remaining to satisfy the requirements of sections 15.1-12-28 and 15.1-12-28.1.
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 - g. Each school in the dissolving district and in adjacent school districts, including its name, location, condition, accessibility, and the grade levels it offers;
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 - i. Conditions affecting the welfare of students in the dissolving district and in adjacent school districts;
 - j. The boundaries of other governmental entities;
 - k. The educational needs of communities in the dissolving district and in adjacent school districts;
 - l. Potential savings in school district transportation and administrative services;
 - m. The anticipated future use of the dissolving districts' buildings, sites, and playfields;
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- a. Attached to one or more contiguous, operating high school districts in the same county; ~~or;~~
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10. The state board shall provide a copy of its final findings of fact, conclusions of law, and order regarding the dissolution to job service North Dakota. If not otherwise included in the findings of fact, the state board shall also provide job service North Dakota with information on the distribution and valuation of property from the dissolving district to the receiving districts."

Renumber accordingly