

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1343

2001 HOUSE EDUCATION

HB 1343

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1343

House Education Committee

Conference Committee

Hearing Date 2-06-01

Tape Number	Side A	Side B	Meter #
2		xx	450--2540
Committee Clerk Signature <i>[Handwritten Signature]</i>			

Minutes: Chair Kelsch opened the hearing on HB1343 relating to nonresident students attending elementary or high schools in this state.

Rep. Kerzman, Dist 35 : (500) support this bill because of a problem in my school district. I want you to listen to both sides and decide.

Gary R. Thune, Attorney from Bismarck representing Hettinger School Dist. : support of HB1343. (SEE ATTACHED TESTIMONY)

Rep. Nelson : (950) Currently are SD schools are on a per pupil basis like we are?

Mr. Thune : I'm not familiar with how they fund their schools.

Rep. Nelson : If I understand you right, SD is not paying any SD dollars towards these students getting educated in ND, right?

Mr. Thune : (982) SD takes the position that they are not SD residence, and they pay nothing.

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House Education Committee

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Rep. Nottestad : (1015) The moving in to a so called apartment has happened years ago. This is not uncommon in the state. How would you respond to the ones who live in ND by the SD border, that if this is passed, will hurt them?

Mr. Thune : This bill deals solely with out-of-state parents being permitted to pay tuition to ND. If the other state adopts similar legislation, then ND parents will have to decide whether they will want to pay tuition to send their kids to SD. What we have now, is SD students are being educated with ND tax dollars. This bill will allow SD parents to stay in SD with their families and pay tuition. This will foster keeping that family in SD.

Rep. Haas : (1205) You said there is no reciprocal agreement with SD, so what about those 45 students that go to the Lemmon School Dist.? Is that school district involved in your litigation?

Mr. Thune : The litigation is between Hettinger and the N.W. School Dist. in SD. I'm not involved with that.

Rep. Haas : If we pass this, do you see some form of retaliation between the Lemmon and Hettinger School Dist., and the Selfridge and Lemmon School Dist.? They had reciprocal agreements before that worked well.

Mr. Thune : (1315) My understanding is that the agreement with Lemmon is intact and acceptable, and there is no intention to change it.

Rep. Haas : (1358) Then it's the N.W. School Dist. that is being obstinate.

Mr. Thune : I'm not familiar with that litigation.

Sen. Krauter : here in support of HB1343.

Ellen Elder, Hettinger School Board : (1468) support this bill. We had members of our community that moved back to SD and they wanted their children to keep attending school in

Hettinger County. They used a delegation of Parental Powers. This was used for three years. We had more and more families trying to use the powers tool. The N.W. School Dist. asked for an opinion on that legal tool. It was determined that the tool wasn't properly applied. We then had parents whose children had attended school and they wanted to continue. They bought homes in Hettinger. We have a total of four families in Hettinger that have their elementary and junior high students attending our schools. Their older siblings remain in SD and the N.W. School Dist. pays those tuition's for those students. Now we are having a problem with the N.W. Dist. saying these people are not living in their homes in Hettinger. They refuse to pay tuition for those elementary students. They are assuming that the high school students are living in Hettinger, and they are withholding all the tuition for those high school students. This has created a real problem for us in Hettinger. It should have been addressed years ago. We have high legal bills trying to address residency issues. The two communities have a strained relationship now. Life long friendships are being broken, and this should not happen. It's unnecessary and unfortunate.

Rep. Nottestad : You say it is simple, just pass this. What do you say to those parents that say, please don't pass this? It may jeopardize our opportunity to go into SD.

Ellen : No one has contacted me with that concern.

Rep. Nottestad : Their concern is if SD changes their law. SD may change and then hurt them.

Arlene Walch, Hettinger School Board : in support of HB1343. The law needs more clarification. Wouldn't it make more sense for SD residence to pay for the education of their children rather than burdening the ND school district where their students attend? We want to allow those parents to pay for their tuition.

Tom Decker, DPI : (2060) opposed to HB1343. I sympathize with those parents from SD with the N.W. School Dist. We understand why those parents want to send their kids to Hettinger, because it is an excellent school district. This is the wrong solution. We need to continue to work at establishing district to district or state to state relationship across the border, or put in place reciprocal enrollment agreements where districts continue to maintain the responsibility for the education in district of residence. If we pass this, we will have no bargaining power.

Rep. Nelson : How many years has it been that SD has not had a reciprocal agreement with ND?

Mr. Decker : I think it was 4 years ago.

Rep. Nelson : That being said, it would look like we are moving farther away from a negotiated agreement with SD, then we were 4 years ago. What is the time line to come to an agreement?

We need a solution.

Mr. Decker : We only have a problem with the one SD district, that being the N.W. District.

This bill is designed to enable the obstinate behavior of one SD school district.

Chair Kelsch : Any more testimony? Hearing none, HB1343 is closed.

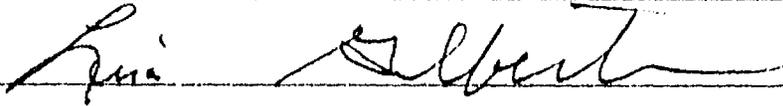
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1343 A

House Education Committee

Conference Committee

Hearing Date 02/06/01

Tape Number	Side A	Side B	Meter #
#3	X		3275 to 3791
Committee Clerk Signature 			

Minutes:

Chairman R. Kelsch, Vice-Chair T. Brusegaard, Rep. Bellew, Rep. Grumbo, Rep. Haas, Rep. Hanson, Rep. Hawken, Rep. Hunskor, Rep. Johnson, Rep. Meier, Rep. Mueller, Rep. Nelson, Rep. Nottestad, Rep. Solberg, Rep. Thoreson

Chairman Kelsch: We will now take up HB1343. What are the wishes of the committee.

Rep. Thoreson: I move a DO NOT PASS.

Rep. Solberg: Second.

Chairman Kelsch: Committee discussion.

The motion of DO NOT PASS passes with 14 YAY 0 Nay 1 ABSENT.

Floor assignment: Rep. Thoreson

## FISCAL NOTE STATEMENT

House Bill or Resolution No. 1343

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad  
Code Revisor

Date: 2/6/01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1343

House House Education Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken Do Not Pass

Motion Made By Rep. Thoreson Seconded By Rep. Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman-RaeAnn G. Kelsch	X		Rep. Howard Grumbo	X	
V. Chairman-Thomas T. Brusegaard			Rep. Lyle Hanson	X	
Rep. Larry Bellew	X		Rep. Bob Hunskor	X	
Rep. C.B. Haas	X		Rep. Phillip Mueller	X	
Rep. Kathy Hawken	X		Rep. Dorvan Solberg	X	
Rep. Dennis E. Johnson	X				
Rep. Lisa Meler	X				
Rep. Jon O. Nelson	X				
Rep. Darrell D. Nottestad	X				
Rep. Laurel Thoreson	X				

Total (Yes) 14 [Click here to type Yes Vote](#) No 0 [Click here to type No Vote](#)

Absent 1

Floor Assignment [Click here to type Floor Assignment](#) Rep. Thoreson

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

**REPORT OF STANDING COMMITTEE (410)**  
February 6, 2001 4:54 p.m.

**Module No: HR-21-2539**  
**Carrier: L. Thoreson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1343: Education Committee (Rep. R. Kelsch, Chairman) recommends DO NOT PASS**  
**(14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1343 was placed on the**  
**Eleventh order on the calendar.**

2001 TESTIMONY

HB 1343

Ellen Elder

2/6/01

Testimony on HB 1343  
Madam Chairman and Committee Members

-introduction

-proponent of HB1343 that amends NDCC section 15-40.2-10

-would like the statute to clearly state that parents of students in bordering states may pay tuition directly to a School District for the education of their child

-some people have the view that this is not possible

-there are parents who would choose this option if it were clearly available

-The Hettinger School Board wants this option to be possible to our neighboring communities thereby alleviating the hardships that have occurred since parents have requested their children to go to school in Hettinger.

- \*delegation of parental powers, used for 3 school years starting 1996 found by DPI not correctly applied for school attendance

- \*have families splitting into two residencies, one in SD and one in ND

- \*Currently have lawsuit being heard in SD to decide definition of residency. We are still waiting for a decision, it has been 4 months.

- \*Mounting legal bills to address these issues

- \*Breakdown of neighboring community relationships

The Hettinger School Board wants to be able to collect tuition from parents of students in bordering state.

The Hettinger School District has all the difficulties that are challenging school districts all across ND and we welcome new students to our district.

Thank you for your consideration

*Ellen Elder*

Ellen Elder

President of Hettinger School Board

Gary Thune 1343

Testimony of Gary R. Thune on HB 1343

February 6, 2001

House Education Committee

I appear on behalf of the Hettinger Public School District in support of HB 1343

As this Committee is well aware:

North Dakota students are permitted to attend public schools other than in their district of residence, in three ways:

1<sup>st</sup> - Open Enrollment - Ch. 15-40.3;

2<sup>nd</sup> - Tuition Paid, <sup>(or waived)</sup> by School District of Residence under Sections 15-40.2-03 and 04; or

3<sup>rd</sup> - Tuition paid by the parent or guardian, via Sections 15-40.2-02 and 06, with the parent or guardian having the right to apply to the school district of residence to pay that tuition for them, and to appeal that decision under Section 15-40.2-05.

This Bill is being proposed to provide a third option to students from bordering states, namely to allow parents to pay tuition to North Dakota schools. Currently, Section 15-40.2-10 permits

- 1) Reciprocal Master Agreements; with state educational agencies from bordering states; OR
- 2) Negotiations w/ school districts of bordering states.

The position of the Asst Atty Genl assigned to the education portfolio, and N.D.'s Dept. of Public Instruction is that this Section (15-40.2-10) does NOT permit collection from parents. It is silent on that point.

It is my understanding that DPI also <sup>will</sup> ~~opposes~~ this bill on the theory that it will "let S.D. school/districts off the hook."

The present practice includes S.D. students attending in North Dakota w/o tuition payment from S.D. schools or S.D. parents.

It involves "split families" maintaining two residences and no tuition being paid to either school district

Simply stated, South Dakota students are being educated by North Dakota dollars.

Put another way, South Dakota parents are not paying tuition for the students to attend North Dakota Schools; rather, North Dakota's taxpayers are paying for that education because:

- 1) S.D. has elected not to enter into a reciprocal master agreement
- 2) S.D. schools are not paying tuition; and
- 3) S.D. parents are not given the option to pay tuition, under D P I's interpretation of Section 15-40.2-10; so

S.D. parents are electing to split their families, purchase or rent a second residence in N.D. and become residents of N.D.

Two Hettiger Board members  
can elaborate on the willingness  
of some of these parents to pay  
tuition, rather than "moving"  
part of their family to North  
Dakota.

Hettiger is currently in litigation  
over residency issues w/ S.D.  
"Residency" is a ~~difficult~~ <sup>quagmire</sup> concept.  
If we win, then the students  
would not be permitted to attend  
ND schools unless the S.D.  
School District of residence  
agreed to pay tuition.

By adopting this amendment  
to Section 40.2-10, S.D.  
parents would be given the option  
to pay tuition to N.D. schools,  
possibly seek reimbursement  
from their S.D. school system  
and keep their family together.

Most importantly, S.D. dollars would  
be used to pay for the education  
of their children in N.D.

(5)

I urge a do pass on HB 1343.  
and would be happy to try  
and answer your questions.

Frank Thune  
Lobbyist #63

02-06-01

Non resident students attending elementary  
or high school in this state

House Bill # 1343

Madam Chairman & members of the  
committee

My name is Gene Welch from  
Hettinger N.D.

I'm here to testify in behalf of House  
Bill #1343 in asking for a legislative  
change in regard to N.D. School Century  
Code 15.40.2-10. The law needs  
more clarification allowing tuition  
payments by private parties (parents  
of students) for out of state students  
(neighboring states) who choose to  
receive their education outside of  
their home school district. There  
appears to be different interpretations  
even within the office of DPE. Wouldn't  
it make more sense for South Dakota  
residents to be paying for the education of  
their children rather than burdening the  
N.D. district <sup>where</sup> they are attending school?

Thank you for your consideration -