

# MICROFILM DIVIDER

ONE RECORDS MANAGEMENT DIVISION  
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ROLL NUMBER

DESCRIPTION

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Yalosta Rickford  
Operator's Signature

10/2/03  
Date

2003 HOUSE EDUCATION

HB 1080

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2003 HOUSE STANDING COMMITTEE MINUTES  
BILL/RESOLUTION NO. HB 1080

House Education Committee

☐ Conference Committee

Hearing Date January 13, 2003

Tape Number	Side A	Side B	Meter #
1	x		500-1296
2	x		00-215

Committee Clerk Signature *Linda Fichter*

Minutes:

**Chairman Kelsch** open hearing on bill.

**SUPPORT**

**Valerie Fischer**, a regional Coordinator for the Department of Public Instruction. See Attached Testimony.

**Rep. Solberg**: If language is not changed at the request of the US Dept. of Ed , will we lose federal funding or aid?

**Fischer**: That could be the consequence of having this not changed or approved. It's hard to make predictions on how they will react.

**Chairman Kelsch**: Basically, this is a change from the negative to the affirmative.

**Fischer**: Yes.

**Rep. Haas** : Is it correct, that only the people that are incarcerated who meet this definition and would receive special services while incarcerated, are those that had and IEP prior to being incarceration?

*Valosta Rickford*  
Operator's Signature

*10/2/03*  
Date

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House Education Committee  
Bill/Resolution Number HB1080  
Hearing Date January 13, 2003

**Fischer:** Yes, that is correct

**Rep. Haas:** The new legislation would include someone who is incarcerated, who in the last placement prior was identified, and didn't have an IEP, would they now receive services?

**Fischer:** I will make the clarification: In the field of special education, you are considered under special education once you are identified. So in this case, it would be applicable for a student who was initially identified through a process of assessment or evaluation to be eligible for Special Ed but perhaps then was incarcerated before the IEP was actually initiated. Once your identified or on an IEP, you must then be served.

**Rep. Haas:** So this really means is that anyone who has been identified for special education would be eligible for services after incarcerated?

**Fischer:** Yes

**Rep. Haas:** So there is subsequent change.

**Fischer:** No. the change is in the language. Before it was a negative but it still included any student being identified on an IEP, What the feds are now requiring is that the language change be made in the positive rather than the negative. In fact they suggested this particular language. It our interpretation that this language means the same and that service will continue to be the same. Let say if in high school before he/she was incarcerated, and identified or served to be in Special Ed or in the need of Special Ed or/and related services, and was then incarcerated they would be eligible for service. If you were identified after incarceration they would not need to be served. The identification must happen prior to incarceration.

*Yolanda Rickford*  
Operator's Signature

10/2/03  
Date

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House Education Committee

Bill/Resolution Number HB1080

Hearing Date January 13, 2003

**Rep. Hawken:** For instance in the 2nd grade a person was identified needing speech therapy that would be a special needs, and they were dismissed from services. If they now become incarcerated can they demand services?

**Fischer:** Once dismissed from service, and no longer received services they would not be eligible for services.

**Rep. Sitte:** If the student was identified with disabilities and did not receive services before incarceration, would they be eligible, this would be an expansion of services?

**Fischer:** That could be case, It's unlikely because identification is made much earlier than 15 years of age.

**OPPOSITION - none**

Hearing closed on HB1080

Committee work at 2:00 pm on 1-13-03

Chairman Kelsch opened.

**Chairman Kelsch** Rep. Mueller motions for a DO PASS, Rep. Solberg seconds the motion>

Discussions: hearing none the roll was taken. 13 yea, 0 no, 1 absent. Rep. Williams to carry this bill on the floor.

**FISCAL NOTE**  
Requested by Legislative Council  
01/02/2003

Bill/Resolution No.: HB 1080

**1A. State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

**3. State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

**A. Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

**B. Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

**C. Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

0

Name:	Robert Rutten	Agency:	Public Instruction
Phone Number:	328-2692	Date Prepared:	01/08/2003

*Yolanda Rickford*  
Operator's Signature

*10/2/03*  
Date

Date: January 13, 2003  
Roll Call Vote #: 1

**2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1080**

House HOUSE EDUCATION Committee

☐ Check here for Conference Committee

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

Action Taken DO PASS

Motion Made By Rep. Mueller Seconded By Rep. Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	x				
Rep. Johnson	x				
Rep. Nelson	x				
Rep. Haas	x				
Rep. Hawken	x				
Rep. Herbel	ND				
Rep. Meier	x				
Rep. Norland	x				
Rep. Sitte	x				
Rep. Hanson	x				
Rep. Hunsakor	x				
Rep. Mueller	x				
Rep. Solberg	x				
Rep. Williams	x				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Williams

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

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10/2/03  
Date

**REPORT OF STANDING COMMITTEE (410)**  
January 15, 2003 8:01 a.m.

Module No: HR-07-0563  
Carrier: Williams  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
HB 1080: Education Committee (Rep. R. Kelsch, Chairman) recommends **DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1080 was placed on the  
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-07-0563

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*10/2/03*  
Date



2003 SENATE EDUCATION

HB 1080

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Valista Rickford  
Operator's Signature

10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1080

Senate Education Committee

☐ Conference Committee

Hearing Date 03-04-03

Tape Number	Side A	Side B	Meter #
1	x		0 - 7.3
Committee Clerk Signature <i>Audra Johnson</i>			

Minutes: CHAIRMAN FREBORG called the committee to order. Roll Call was taken with all (6) members present.

CHAIRMAN FREBORG opened the hearing on HB 1080 relating to the definition of students with disabilities who are incarcerated.

**Testimony in support of HB 1080**

VALERIE FISCHER, Regional Coordinator for the Office of Special Education with DPI, presented testimony. (see attached).

SENATOR FLAKOLL asked what happens if an incarcerated individual is released prior to completing their individualized education program. Are they just finished or "on their own".

MS. FISCHER stated it is doubtful they would be "forgotten" and they would be referred to an adult learning center close to them.

SENATOR FLAKOLL asked if the parole board could make the completion of their diploma or certificate a term of their parole. MS. FISCHER stated yes, they could.

*Valosta Rickford*  
Operator's Signature

*10/2/03*  
Date

Page 2

Senate Education Committee

Bill/Resolution Number HB 11080

Hearing Date 03-04-03

SENATOR COOK asked how far back does the state go in the case of a drop out in determining their individualized program. MS. FISCHER stated that if they have dropped out of school, the program is canceled and the state is not responsible for them to be placed back in it.

MARY WAHL, ND Council of Educational Leaders, stated their support for this bill. They feel it is just a change in language.

There was no opposition to HB 1080.

The hearing on HB 1080 was closed.

SENATOR COOK moved a DO PASS. Seconded by SENATOR CHRISTENSON.

Roll Call Vote: 6 YES. 0 NO. 0 Absent.

Carrier: SENATOR CHRISTENSON

SENATOR FLAKOLL has a concern that some incarcerated individuals may not receive the program they need if they are a school drop out.

Date: 3/4/03  
Roll Call Vote #: 1

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. *HB 1080***

**Senate EDUCATION**

## Committee

☐ Check here for Conference Committee**Legislative Council Amendment Number**

### Action Taken

**Motion Made By**

### Seconded By

[illegible]**Total (Yes)**

**No**

**Absent**

## Floor Assignment

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

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**Operator's Signature**

Date \_\_\_\_\_

REPORT OF STANDING COMMITTEE (410)  
March 4, 2003 11:25 a.m.

Module No: SR-38-3834  
Carrier: Christenson  
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE  
HB 1080: Education Committee (Sen. Freborg, Chairman) recommends DO PASS  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1080 was placed on the  
Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SF-38-3834

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Operator's Signature

*Yalosta Rickford*

10/2/03  
Date

2003 TESTIMONY

HB 1080

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10/2/03  
Date

**TESTIMONY ON HB 1080**  
**HOUSE EDUCATION COMMITTEE**  
**January 13, 2003**  
**by Valerie Fischer, Regional Coordinator**  
**701-328-2277**  
**Department of Public Instruction**

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Madam Chairman and members of the committee:

My name is Valerie Fischer and I am a Regional Coordinator for the Office of Special Education with the Department of Public Instruction. On behalf of the DPI, I am here to speak in favor of HB 1080 relating to a language change to existing Century Code.

During the last legislative session, we requested the initial language change as required by the US Department of Education. There were no fiscal implications, or changes to services for students with disabilities. There was no opposition to the proposal and the Legislature was unanimous in its support. The proposed changes are at the request of the US Department of Education for all states in fulfillment of our state eligibility requirements for the Individuals with Disabilities Education Act (IDEA). The eligibility document provides state assurances to the federal government regarding IDEA and makes it possible for our state to receive federal funding. With the exception of this request and pending change to NDCC, ND was the first state in the country to be in full compliance. Their preference for the language change is merely for the language to be in the affirmative rather than the negative. Once again, our office does not anticipate a change in practice or any fiscal impact resulting from this change.

*Valerie Fischer*  
Operator's Signature

*10/2/03*  
Date

The ND State Penitentiary provides special education services where indicated and offers individualized opportunity for education. They also use education (completion of high school diploma or GED) as an early release incentive. At this time, the ND Penitentiary serves 40 students under the age of 21; only 6 receive special education services.

ND Century Code 15.1-32-01. Definitions

4. "Student with disabilities" means an individual who is at least three years of age but who has not reached the age of twenty one before September first of the year in which the individual turns twenty one and who because of mental, physical, emotional or learning characteristics requires regular or special education and related services designed to meet the individual's educational needs. The term includes an individual with language impairment, a visual impairment, emotional disturbance, an orthopedic impairment, or autism, and an individual who has a specific learning disability, a traumatic brain injury, or other health impairment. ~~The term does not include an individual who is at least eighteen but not yet twenty one years of age and incarcerated in an adult correctional facility unless, in the individual's last educational placement prior to incarceration, the individual was identified as being a student with a disability and had an individualized educational program (IEP) or services plan.~~ The term includes a student aged eighteen through twenty-one who is incarcerated in an adult correctional facility and who, in the last educational placement prior to incarceration, was identified as being a student with a disability and did not have an individualized education program, or was identified as being a student with a disability and had an individualized educational program.

Yalosta Rickford  
Operator's Signature

10/2/03  
Date



4p

The Department supports the bill before you today. The approval of this "housekeeping" bill will allow us to be in full compliance with the US Department of Education. We urge your approval of this bill.

Madam Chairman, that concludes my testimony. I would be happy to answer any questions the committee may have.

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Operator's Signature

10/2/03  
Date

**TESTIMONY ON HB 1080  
HOUSE EDUCATION COMMITTEE**

**March 4, 2003**

**y Valerie Fischer, Regional Coordinator  
701-328-2277**

**Department of Public Instruction**

---

Chairman Freborg and members of the committee:

My name is Valerie Fischer and I am a Regional Coordinator for the Office of Special Education with the Department of Public Instruction. On behalf of the DPI, I am here to speak in favor of HB 1080 relating to a language change to existing Century Code.

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64

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