

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1194

2005 HOUSE EDUCATION

HB 1194

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1194**

House Education Committee

☐ Conference Committee

Hearing Date **17 Jan 05**

Tape Number	Side A	Side B	Meter #
1	X		0 - end
		X	0 - 330
		X	4000 - 5000

Committee Clerk Signature

Jan Prindle

Minutes:

Chairman Kelsch opened the hearing on HB 1194. All members were present.

Rep Drovdal, District 39, the primary sponsor gave an overview of the bill. We have a reciprocating agreement with South Dakota that worked very well, there are demographic problems that are getting worse. Students are traveling greater districts all the time to get to school. The agreement was withdrawn by SD and now school boards are negotiating individually with school districts across the border. This created a lot of problems, tension and disappointment. There was a meeting this fall in Bowman with both states governor's offices, DPI, legislators from North and South Dakota, schools boards, parents. The conclusion we came to was that we must come to an agreement to facilitate open enroll between the two states and let the departments of instruction work out the detail. Money needs to follow students.

Rep. Mueller: The fiscal note says we are spending more than we receive.

Drovdal: It is now, but will balance out in the future. This is somewhat similar to agreements we have with MT.

Rep. Brandenburg, Dist. 28, testified in favor of the bill. How far should a kid have to travel. We should be able to accommodate these kids. It's not an issue about money, it's about what is the right thing to do for kids.

Rep. Hanson: Does SD have a regulation they must have 50 students in a high school or they close. Is that why they want to keep the students?

Brandenburg: I think they do but it's up to the states to work something out so they can accommodate those kids.

Tom Decker, DPI, testified in favor of the measure. **(Testimony attached.)** South Dakota is introducing a bill that has parallel provisions.

Rep. Mueller: Can we envision recruitment of ND students?

Decker: We adopted laws several sessions ago to put a pinch on that, part of the contract will take care of that.

Rep. Mueller: If we pass this how can we reconcile with other states and provinces?

Decker: We think this will resolve the problem on the ND/SD border and if it works there we will probably be back in a couple of years to extend it to other borders.

John Campbell, principal of Hettinger School District, read a letter from Ethan Andres **(Copy attached.)** Hettinger has 32 students that attend school in Lemmon. They receive 4 from Lemmon. South Dakota does not pay transportation costs in ND whereas ND pays all transportation costs in both states all the way to the school. He emphasized that we need to take

care of the students that are hurt by the present negotiating problems. He urged passage of HB 1194.

John Pretzer, principal of Scranton schools, testified in favor of the HB 1194. There are 11 SD students. They have had SD students for many years. SD is unwilling to give up money, and they find themselves at the bargaining table every year and often at impasse. This is not necessarily a money issue. This is about how we take care of our students and families.

Barbara Burholz, parent, Harding SD testified in favor of the bill. Their family has established a residence in ND in order to have their children in ND school. They have been fighting for two years. Their school district doesn't care if they have to pull their senior daughter out of school. She knows of one family that is home schooling because they were denied going to ND school. Her children's grandparents and all subsequent generations all attended ND schools. They established a residence in ND but their economic base is in SD. She felt they should be able to pick the best school for their children.

Rep. Herbel: A question for Mr. Decker. If SD decides not to pass similar legislation?

Decker: We are back where we started. Senate leader is the sponsor of their bill and the governor supports it.

Heide Miller, parent, has gone to court to keep her junior high school student in Bowman School. They have family there and he can stay with them if necessary and have support for his activities. He is able to participate in more activities. He tested highest in academic achievement in that school. Moving him would be very detrimental. She emphasized that the state line should not be a barrier.

Mary Wall, Council of Education Leaders, testified in favor of the bill. It is important to come to consensus problem solving and this does that.

Dean Bard, Small Organized Schools, testified in favor of the bill as it offers relief to schools on both sides of the border and would result in better education for the kids.

Lannie Schultz, SD resident, testified in favor of the bill. She has a student in kindergarten and is facing 18 years of problems. She does not support boarding school for such young children. They maintain an apartment in Hettinger so that they can send their child there as they feel it is best for their daughter. The distance necessary to travel to SD schools is too great. **Bev Nielson, ND School Board Assn.**, testified that her organization is in support of the bill.

Nola Harvy, SD parent, testified that they have 3 daughters, two have graduated from Scranton, ND high school. Their remaining daughter is a junior so they have only one more year to deal with this situation, but others will continue to do so. They live 30 miles from Scranton and their daughter travels every day. If necessary that she went to Buffalo, SD, they would have to board her. They do all their business in ND including church. If she were going the other direction she would not be able to participate in things that are of value to their family. The values at the ND school are different than Buffalo. Agriculture vs Ranch/ music vs rodeo. She urged the committee to think of children first, not dollars.

Carmen Erickson, SD parent, testified in favor of the bill. They live 10 miles into SD. Their children are the fourth generation to go to ND schools. Moving children is difficult and they would need to move to ND and leave the family farm in order to assure their children could go to ND schools.

Rep. Froelich, Dist. 31, testified in favor of HB 1194. Quite a few of his district's children attend schools in Lemmon and Macintosh. We need to do something to ease this situation.

Rep. Mueller: Mr. Decker, how many are coming in and how many going out in SD.

Decker: Sixty-four going out, forty-five coming in.

Rep. Hawken: What if we took transportation away from the ND people. Would that be a problem with this bill.

Decker: With the block grant for transportation, it's not a problem. If they want to spend it to take their students to SD, it's their decision.

The hearing closed.

Chairman Kelsch called the meeting on HB 1194 back to order at 11:00 a.m.

Rep. Haas: I move a **Do Pass** on HB 1194

Rep. Herbel: **Second**

Chairman Kelsch: I did have a question of whether we should amend this to the effect that it be contingent on SD passing the same legislation. Because it is SD's short session, we can pass this over to the Senate so that SD can see how serious we are about this and if SD doesn't pass it at that point we'll just recommend that the Senate defeat it and we will work on it for the next two years.

Rep. Haas: There has been considerable conversations with SD so they are on track to approve it.

Chairman Kelsch: I know the chairmen of both the SD education committees and they're very progressive in looking out for what they believe is the best interest of the kids. I am hopeful

they will be driving forces and move this forward. Both governor's offices and the right people are working on it.

Rep. Solberg: In 1999 didn't this committee move on a similar agreement with Montana.

Chairman Kelsch: That's correct.

Rep. Haas: We should commend those people who are making every effort to make it easy for students and families. That's very commendable.

Chairman Kelsch called for a roll call vote on the DO PASS.

Yes: 14 **No:** 0 **Absent:** 0 **Passed**

Rep. Hunsakor will carry the bill.

Chairman Kelsch closed the hearing on **HB 1194**

FISCAL NOTE
Requested by Legislative Council
01/07/2005

Bill/Resolution No.: HB 1194

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$133,252	\$0	\$0
Expenditures	\$0	\$0	\$0	\$266,500	\$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.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$133,252	\$0	\$0	\$0

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

Cost for net overflow of North Dakota students to South Dakota schools.

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.*

Amount withheld from districts with net overflow of students to South Dakota schools.

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.*

\$266,500 net paid to South Dakota for cost of net overflow of 20 students per year of the biennium.

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.*

None.

Name: Tom Decker
Phone Number: 328-2267

Agency: Public Instruction
Date Prepared: 01/12/2005

Date: 17 Jan 04
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1194

House Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

to pass
Haas

Seconded By

Herbel

Representatives
Chairman Kelsch
Vice Chairman Johnson
Rep. Haas
Rep. Hawken
Rep. Herbel
Rep. Horter
Rep. Meier
Rep. Norland
Rep. Sitte
Rep. Wall

Yes No
✓
✓
✓
✓
✓
✓
✓
✓
✓
✓

Representatives
Rep. Hanson
Rep. Hunskor
Rep. Mueller
Rep. Solberg

Yes No
✓
✓
✓
✓

Total (Yes)

14

No

0

Absent

0

Floor Assignment

Hunskor

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

REPORT OF STANDING COMMITTEE (410)
January 18, 2005 9:27 a.m.

Module No: HR-11-0606
Carrier: Hunskor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1194: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1194 was rereferred to the Appropriations Committee.

2005 HOUSE APPROPRIATIONS

HB 1194

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1194

House Appropriations Committee
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date January 27, 2005

Tape Number
1

Side A
x

Side B

Meter #
0 - 8.5 & 23.7 - 35.2

Committee Clerk Signature



Minutes: Chairman Martinson opened the hearing on HB1194.

Rep. Drovdal presented the bill to the committee. Basically bill actually allows open enrollment with South Dakota. Only takes effect if South Dakota passes the identical bill. School districts have really struggle with the cross border problems. Need to do what is best for students.

Chairman Martinson If a student from South Dakota comes to school in North Dakota, we pay that district and if a student from North Dakota goes to South Dakota, they pay us, correct?

Rep. Drovdal That's correct. North Dakota pays so much per pupil and so does South Dakota. The problems lays in the cost above that for the school districts. North Dakota district is paying the South Dakota difference for that and South Dakota is paying the North Dakota difference for that. That is negotiated between the districts currently. That is the problem. If a district says we can't pay the difference in the costs, the district accepts the pupils at that lower rate. If a district says we won't take the pupils unless the full difference is paid, the district get stuck paying more.

They are no set guidelines for payment. This bill takes that element out of the picture with open enrollment between the states..

Rep. Gulleason Do we have more students on the North Dakota side than South Dakota?

Rep. Drovdal Currently its the other way but at times it will turn around.

Rep. Aarsvold It has been South Dakota's way for most of our relationship, correct?

Rep. Drovdal Tom Decker would be the one to answer that.

Vice Chairman Brusegaard Currently if a North Dakota school district sends a student to South Dakota, that district still get tuition apportionment dollars because tuition apportionment is based on census not on head count?

Rep. Drovdal Yes, but Tom Decker should address that.

Tom Decker, DPI (See attached testimony A1194) The bill basically proposes a cross border open enrollment. We believe the whole thing is fiscally neutral. Now 65 North Dakota students go to South Dakota and 45 South Dakota students go to North Dakota, in round numbers the outflow is 20 students. The problem on both sides of the border is when districts have the option of denying attendance. So we have worked out an open enrollment agreement with South Dakota.

Chairman Martinson Is this money in your current budget - is this new money?

Tom Decker This is not new money. We are paying foundation aid money to districts now.

Chairman Martinson This is included in your DPI budget? We could tell our committee that this bill has no fiscal impact upon your budget that you are aware of?

Tom Decker They only way this would have a fiscal impact is if the number of North Dakota students leaving North Dakota increases. That we have no control over.

Vice Chairman Brusegaard It's listed on the fiscal note as other funds, that's because those dollars are deducted from state payments to North Dakota schools?

Tom Decker We will deduct about half of this cost from districts that have a net outflow.

Rep. Aarsvold Has any student or family been denied access from either state?

Tom Decker Yes, we heard testimony in house committee from parents in South Dakota who had to rent houses in North Dakota to establish residency in North Dakota so their children could go to the school of their choice.

Rep. Aarsvold We now would have in place two or three different arrangements for cross border students -Minnesota, Montana and South Dakota. Is that true?

Tom Decker We have repealed our cross border attendance reciprocal agreement a couple of sessions ago. So we are in the same situation with Minnesota and Montana, that is, district per district negotiation across the border. We've not had the problems we have with South Dakota.

Vice Chairman Brusegaard I motion Do Pass HB1194. **Rep. Gulleason** Second.

Rep. Aarsvold I'm in a difficult position. I do not oppose the appropriation but I do oppose the policy in the plan. My preference would be to have a consistent relationship with all adjoining states as opposed to having special arrangements with this state and that state. I'm not sure if I can vote for the appropriation on the floor and turn around and not support the bill. I'm uncomfortable with that.

Vice Chairman Brusegaard Consistency is a sign of a small mind. Knowing the ongoing struggle we have, I think we should try it.

VOTE: 4 YES and 0 NO with 2 absent. DO PASS. Rep. Brusegaard with present bill to full committee.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1194
Cross Border School Attendance

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 1, 2005

Tape Number

1

Side A

Side B

X

Meter #

#16.8 - #31.9 (end)

Committee Clerk Signature

Chris Alexander

Minutes:

Rep. Ken Svedjan, Chairman opened the hearing on HB1194.

Rep. Tom Brusegaard explained that this bill is setting a statewide negotiation in place that lets kids go to school in either state and the states will settle the costs at the end of the enrollment process. This negotiation is only with the South Dakota border.

Rep. Keith Kempenich asked if this was money already being spent and just redirected or if it was new money.

Rep. Tom Brusegaard explained that currently the money comes from the local school districts and in this bill the money would flow through the Department for Public Instruction (DPI).

Rep. Jeff Delzer asked why the negotiation was only happening with the South Dakota border.

Rep. Tom Brusegaard answered that the majority of the problems occur with the South Dakota border, but if this is successful they are hoping it could be used like a pilot program and give them the guidelines to work out similar negotiation with Montana and other borders.

Rep. Mike Timm, Vice Chairman asked how many students we have going to school in South Dakota and do we have any students from South Dakota coming into North Dakota.

Mr. Tom Decker from DPI answered that overall we have 156 students going out of state and 135 students coming in. There are 64 from North Dakota going into South Dakota and 45 from South Dakota coming into North Dakota. South Dakota's legislature is hearing a similar bill.
(meter Tape #1, side B, #21.3)

Rep. Keith Kempenich commented that as it currently stands, North Dakota parents have no choice where their children go to school, but in South Dakota they do.

Mr. Tom Decker answered that the grandfathering that was in place previously has now run out in both states. The way it stands now the local school boards have to approve any requests. The problem with this is that it can be used as leverage for getting funding.

Rep. Ken Svedjan, Chairman asked for clarification on the fiscal note. The revenues are from the students coming from South Dakota to North Dakota. And the expenses are the reverse of that.

Mr. Tom Decker answered that technically this is correct. The 45 students coming from SD will go on the SD school district's ADM as though they were resident students. And the reverse is true so the reconciliation between ND and SD will be for the difference in the number of students. (meter Tape #1, side B, #24.5)

Rep. Ken Svedjan, Chairman asked if the money to cover these costs was in the budget for DPI.

Mr. Tom Decker we are now paying ND school districts 120% of basic foundation aid for each student that crosses the border. They receive that money and then add a local share to pay SD to

cover the cost of educating that student. What will happen with this bill is that we will hold the 120% of foundation aid for each of those students and students will come in from SD and receive a foundation aid payment but for the balance we will take the 120% of foundation aid and subtract from that the agreed upon cost of education which we think will be approximately \$6500 leaving about \$3200 which we will then deduct from the district's foundation aid for each student that they have in their net outflow. (meter Tape #1, side B, #25.6)

Rep. Clark Williams asked how many school districts were effected by this.

Mr. Tom Decker answered 6 or 7.

Rep. Bob Skarphol noted that in 2001 we went away from a similar agreement with Montana because local school districts were having to pay more money because negotiations were happening through DPI. This bill does not seem to rectify this problem, so will it end up that local school districts will have to spend more money than they should to educate their students in SD.

Mr. Tom Decker explained for many years Montana school districts were allowed to let ND students go to Montana school on their ADM and we were paying foundation aid to our districts for those same students. And it doesn't seem reasonable that we should be able to send our students across the border and pay half of what it costs to educate them which is really what our local fare is. So the arrangement with SD represents what reflects the full cost of education and in the long run we think that is where we will end up when we correct problems like what we had in Montana. (meter Tape #1, side B, #29)

Rep. Eliot Glassheim asked if we are actually switching the funding from the local school districts to the state.

Mr. Tom Decker answered no. The state used to pay the local school districts and then they negotiated with and paid South Dakota. With this bill all negotiations and payments would be handled through the state agencies. It is the same amount of money, it just flows through a different process.

Rep. Ole Aarsvold asked why negotiations aren't consistent with the other borders and should we be looking for future legislation for agreements with them.

Mr. Tom Decker explains that they have been 360 degrees around this issue. In the 70' s we had a reciprocal agreements with all border states. Now they have all been dropped and we are back to school districts doing the negotiating. History has proven that local districts are using student attendance as a tool to barter for additional funding. Parents on both sides of the border go through months of extreme anxiety every year while they wait to hear whether they can send their children to the school of their choice. We think this is a reasonable way to resolve that issue. And yes, future legislation with other states is probable once they see how this agreement works. (meter Tape #1, side B, #31.9)

Rep. Francis J. Wald asked if there were any situations similar to this with the Canadian border.

Mr. Tom Decker answered no.

Rep. Tom Brusegaard moved a Do Pass on HB1194.

Rep. Bob Martinson seconded.

Rep. Ken Svedjan, Chairman called for a roll call vote. Motion carried with a vote of 19 yeas, 0 neas, 4 absent. Rep Hunskor from the Education Committee will carry this bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on HB1194.

Date:
Roll Call Vote #:

1.27.05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *HB1194*

House Appropriations Education and Environment

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

DO PASS

Motion Made By

Rep. Brusegaard

Seconded By

Rep. Gulleson

Representatives	Yes	No	Representatives	Yes	No
Chairman Martinson	<i>X</i>		Rep. Aarsvold	<i>X</i>	
Vice Chairman Brusegaard	<i>X</i>		Rep. Gulleson	<i>X</i>	
Rep. Rennerfeldt		<i>absent</i>			
Rep. Wald		<i>absent</i>			

Total

6

(Yes)

4

No

0

Absent

2

Floor Assignment

Rep. Brusegaard

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

Date: **February 1, 2005**
Roll Call Vote #: **1**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1194

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken **DO PASS**

Motion Made By **Rep Brusegaard**

Seconded By **Rep Martinson**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	AB	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	AB		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Guleson	AB		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	AB				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **19** No **0**

Absent **4**

Floor Assignment **Rep. Hunsakor**

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

R - Education - Rep. Kelsch
EE - Do Pass - Brusegaard

REPORT OF STANDING COMMITTEE (410)
February 1, 2005 1:28 p.m.

Module No: HR-21-1555
Carrier: Hunskor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1194: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO PASS
(19 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1194 was placed on the
Eleventh order on the calendar.

2005 SENATE EDUCATION

HB 1194

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1194

Senate Education Committee

☐ Conference Committee

Hearing Date February 23, 2005

Tape Number	Side A	Side B	Meter #
1	X		1200-END
1		X	1-208

Committee Clerk Signature

Patty Wilkens

Minutes:

Chairman Freborg opened the hearing on HB 1194. All Senators were present with the exception of Senator Seymour.

Representative David Drovdal introduced the bill. We used to have a reciprocating agreement for students along the border, so they could have the best education possible. In the late 1980's, South Dakota took away that agreement. There is a lot of problems negotiating between the school districts across the border. There were efforts to try to get this back to an open enrollment system between the two states.

Senator Taylor- When you met with the South Dakota legislators, did they plan to enact a similar plan?

Representative Drovdal- They passed HB 1149 in their House, and now it is awaiting action in the South Dakota Senate.

Tom Decker, Director of School Finance and Organization with the Department of Public

Instruction appeared in support of the bill. See written testimony.

Senator Lee- For example, the number of enrolled students in South Dakota, do not count for Hettinger's enrollment figures?

Tom- North Dakota open enrolled students in South Dakota would not be on those enrollment figures.

Senator Lee- In terms of students who reside along the border, with open enrollment can they choose any school district they want?

Tom- Yes, that would probably be true. This bill only deals with school districts along the border.

Senator Flakoll- Why are we at 127% of foundation aid?

Tom- We are at 120%, and we passed that a number of years ago, to allow students to go across the border.

Senator Flakoll- This bill would not effect the taxable dollar behind each student, or any mill levy redistributions?

Tom- No. We are going to have a contract with SD that establishes a dollar amount per student.

Senator Flakoll- Does South Dakota's statement of fiscal impact have similar numbers like we did?

Tom- My understanding is that South Dakota's cost per student is very similar to ours. At some point we might want to consider something similar to this with Montana and Minnesota. The only difference is the area around the South Dakota border is sparsely populated.

John Campbell, Superintendant of Hettinger Public School appeared in support of the bill.

Over the years, the Hettinger school district has had several kids go to school in Lemmon, SD.

When I came to Hettinger as superintendent, I worked with other area superintendents to see how we could best handle the students from SD coming to ND. We decided to the best way to handle this is get the legislature, governors, and superintendents of public instruction of both states work together on this issue. We had parents come in and explain problems they encountered. He referenced a situation their school district had to deal with Harding County in SD. He testified for House Bill 1149 at the SD legislature. The main thing is the students come first, we need to take care of them financially.

Senator Taylor- You mentioned \$6900 for the 24 students coming in.

John Campbell mentioned the figures for grades K-6 & 7-12.

John Pretzer, Superintendent at Scranton Public School appeared in support of the bill. He has 14 students moving in to his school district from South Dakota. One of the problems we have encountered is we end up in negotiations each year with a school district in South Dakota. As budgets get tighter, and enrollments drop, things began to change. We have entered a one year agreement with the Harding County School District to pursue legislation like the one being offered. It is difficult for our board to negotiate with their board is because the amount of funding is uncertain. The larger issue is we have families involved in this, we need to do a better job in this area. An alternative would be to pull families out of the school district, and tell them they can no longer attend that district. HB 1194 has been well received in both states so far.

Senator Flakoll- How far is the distance that some students have to travel to go to school?

John Pretzer- We currently have 7 bus routes in our district, where two of those routes go down to the border. Those families meet the buses at the border and pick up their kids, and also bring them to the border in the mornings.

Senator Flakoll- How far away is the furthest family from the school? How about the closest from South Dakota?

John Pretzer- The border is 15 miles from Scranton, and the furthest would be 30 miles.

Heidi Miller, appeared on behalf of Karmen Erickson in support of the bill.

When kids finished 8th grade at the country school in rural Harding County, they were given the choice of going to high school in Buffalo, SD or going to school in ND. We go to the ND communities because they are the closest economic centers for us. We choose to cross the border, because of our location and the foundation that was allowed in past years.

This legislation is needed to take the problem away from the local school board that puts neighbor up against neighbor. This bill will allow us to remain on our family farm and continue to raise our children the way that is the best for them. With the ability to cross the border we have 4 choices of high schools within 30 miles, if the border is closed we would only have one choice. The transportation cost would be over \$2,000 on sending our high schoolers to Bowman.

Dean Bard, appeared on behalf of North Dakota's Small Organized Schools (NDSOS) in support of the bill. NDSOS represents 86 school districts in our state. We do support giving parents better educational opportunities for their children, this bill would do that. On subsection 2 B, on page 1, it details three requirements that the contract was supposed to have.

Mary Wahl with the North Dakota Council of Educational Leaders, appeared in support of the bill. The question we need to ask ourselves is what have we done so far for students in this

legislative session. This bill will provide some reliance for the parents and their students on where they will go to school the following year. It will add more stability in their lives and their child's educational future.

Senator Flakoll- We had a bill earlier with respect to teachers coming in from another state to teach here. Do parents have the right to sue based on inadequacy?

Mary- I'm not sure there would be any basis to sue, unless the students were not being taught in the schools.

Chairman Freborg closed the hearing on HB 1194.

Action taken:

Senator Erbele made a motion for a Do Pass recommendation for the bill. Seconded by

Senator Taylor. The vote was 5-0-1. Senator Taylor is the carrier of the bill.

Date: 2/23/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1197

Senate SENATE EDUCATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Enb

Seconded By

Taylor

Senators
CH- SENATOR FREBORG
V-CH- SENATOR G. LEE
SENATOR ERBELE
SENATOR FLAKOLL

Yes
✓
✓
✓
✓

No

Senators
SENATOR SEYMOUR
SENATOR TAYLOR

Yes No
✓

Total (Yes)

5

No

0

Absent

1

Floor Assignment

Sen Taylor

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

REPORT OF STANDING COMMITTEE (410)
February 23, 2005 12:39 p.m.

Module No: SR-33-3475
Carrier: Taylor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1194: Education Committee (Sen. Freborg, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1194 was placed on the
Fourteenth order on the calendar.

2005 SENATE APPROPRIATIONS

HB 1194

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1194

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 03/09/05

Tape Number

1

Side A

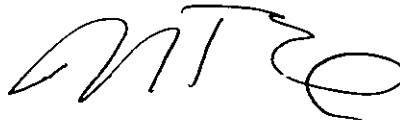
x

Side B

Meter #

0-1500

Committee Clerk Signature



Minutes: **Chairman Holmberg** opened meeting on HB 1194.

Rep. David Drovdal, District 39 appeared in support of HB 1194. He is also a sponsor of the bill and went over the background and purpose of the bill.

Sen. Lindaas: Does South Dakota have a similar bill?

Rep. Drovdal: Yes, I believe it is in South Dakota's Governors office right now.

Sen. Bill Bowman, District 39 appeared in support of HB 1194. Stating that this is in the best interest of the students.

Sen. Robinson: Is there a similar situation occurring in Montana?

Sen. Bowman: Yes, but there is an agreement regarding Fairview.

Tom Decker, DPI appeared in support of HB 1194. Mr. Decker went over the attached fiscal note.

Mary Wahl, appeared in support of HB 1194, urging a do pass.

Page 2

Senate Appropriations Committee

Bill/Resolution Number HB 1194

Hearing Date 03/09/05

A **Do Pass** motion was made by Sen. Andrist, seconded by Sen. Robinson. Roll call vote was taken, 13 yeas, 2 absent and not voting was recorded. The bill's carrier will be Sen. Taylor.

Chairman Holmberg closed meeting on HB 1194.

Date 3-9-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~HB~~ HB 1194

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

DO PASS

Motion Made By

A

Seconded By

R

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER	/	
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG			SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER	/				
SENATOR THANE	/				

Total (Yes)

13

No

0

Absent

2

Floor Assignment

EUD

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

REPORT OF STANDING COMMITTEE (410)
March 9, 2005 9:12 a.m.

Module No: SR-43-4481
Carrier: Taylor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1194: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1194 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

HB 1194

HB 1194
1 Jan

TESTIMONY ON HB 1194
HOUSE EDUCATION COMMITTEE
January 17, 2005
by Thomas G. Decker, Director
School Finance and Organization
328-2267
Department of Public Instruction

HB1194 as drafted would replace current provisions of law for cross-border attendance for K-12 students between North Dakota and South Dakota. It puts in place a system of open enrollment in which parents and students choose which school and which side of the border will best serve their needs.

A brief review of cross border attendance history may help get this approach in perspective. Beginning at least as far back as 1971, North Dakota and South Dakota had a reciprocal agreement regarding cross-border attendance. These agreements set a minimum and a maximum amount of tuition that would be paid for students to attend out of state schools. It was adjusted annually by mutual agreement to reflect changing costs. Under this system school districts had to agree to allow a student to attend out of state. Most students who took advantage of cross-border attendance provisions came from areas and families with economic and social connections to a community across the border.

Provisions also changed as the Legislature changed school district organization. For example, in 1987 when a large number of small non-operating districts were required to dissolve, students who lived in those districts and attended schools out of state were grandfathered through a provision that guaranteed cross-border attendance for the rest of the students' K-12 schooling. Those provisions were updated in the early 1990s again.

In the late 90s, South Dakota repealed its reciprocal agreement law. We retained those relationships with Montana and Minnesota until 2001 when we repealed our law.

The repeal of our reciprocal agreement law put us into the current situation and brought about the development of the proposal in HB1194. Remember that North Dakota adopted in-state open enrollment in 1993. Cross-border attendance was dependent upon annual negotiations between North Dakota and South Dakota districts along the border--as was the case with other borders. Whenever school districts were in a position to grant or withhold permission for cross-border attendance, that issue became a feature of the negotiations between North Dakota and South Dakota districts. The most serious problems in this regard involved the North Dakota/South Dakota west river border districts. Students and their parents went through an annual anxiety session over whether or not their students would be able to continue attending the school of their choice.

This led to a search for better solutions and a series of meetings between border districts and state level officials and parents. Those discussions led to the current effort to adopt parallel open enrollment provisions in both states.

You will hear from some of the border district representatives and from parents who will be affected by the proposed legislation.

HB1194 would allow parents who live in border districts to choose where to send their students to school. Districts of residence on either side of the border would not be able to limit these choices. Receiving districts could refuse open enrolled students only if space or program services for the student were unavailable. An open enrollment application and timelines would be worked out by the two state education agencies with input from border districts.

Payment of tuition would be handled at the state agency level. An annual contract between North Dakota and South Dakota would set a single cost of education figure (for example, \$6500 per student). Arrangements would be agreed upon for special education students. Quite likely each resident district would retain responsibility for any costs over the state average.

The table which follows outlines the state-to-state cost numbers. The table shows that 20 more students attend school in South Dakota than come into North Dakota. For the first year of the biennium, North Dakota would owe South Dakota \$130,000.

	Year 1	Year 2	Total
Net students out	20	20	40
Cost of Ed	6,500	6,825	13,325
Total Cost	130,000	136,500	266,500
State Fnd Aid	3,271	3,391	6,662
Local Share	3,229	3,434	6,663
Local Deduction	64,576	66,676	133,252
State Fnd Aid to SD	65,424	67,824	133,248

Within North Dakota each border district with a net outflow would be assessed their share of the cost. Currently, cross-border students are eligible for 120% of foundation aid. If a district has a net outflow, we would withhold the local share for those students from the district's foundation aid. As you can see from the table, districts who have a net outflow would cover about half the net cost to South Dakota. The balance would come from the state foundation aid pool.

Cross-border students would be treated like resident students for payment of state aid in both states. Districts would report these students as cross-border students for purposes of the annual settlement between the states. In all other ways, they would be treated the same as a North Dakota student who open enrolls between districts within North Dakota.

Transportation is optional. Miles traveled within North Dakota could be reimbursed if our system allows that.

21

HB 1194
17 Jan 05
Acker

ND Students Out of State - Cross Border		Coded for 2005 School Year																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																										
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Out of State Students enrolled in ND		Coded for 2005 School Year												Grand Total
Public	7													
Count of StateID	Gr													
CoDist	K	1	2	3	4	5	6	7	8	9	10	11	12	
01013 Hettinger 13	1	1	2	2		2	1	1	3	3	4	4	2	26
06001 Bowman 1										2		3		5
06033 Scranton 33		2	1	1	2		1		1			3		11
08001 Bismarck 1													1	1
12001 Divide County 1		1	1		1		1		1	1				6
17003 Beach 3									2					2
25001 Velva 1									1					1
29020 Golden Valley 20									1					1
31003 Parshall 3									1					1
34001 Pembina 1		3	1	3				2	2					11
34019 Drayton 19												1		1
39018 Fairmount 18												2		2 ?
43003 Solen 3										1				1
45001 Dickinson 1						1								1
49009 Hillsboro 9												1		1
53015 Tioga 15			1	1										2
Grand Total	1	7	6	7	3	3	3	3	12	7	4	14	3	73

HB 1194
17 Jan 05

January 14, 2005

North Dakota House of Representatives
Bismarck, ND

Ethan Andress, DVM
10000 SD HWY 75
Lodgepole, SD 57640

read by
John Campbell of
Hettinger

Dear Committee Members:

We are asking for your help in solving the enrollment problems between North Dakota and South Dakota. We believe an Open Enrollment policy is in the best interest of families and students in affected communities.

My family lives 4 miles south of Hettinger, North Dakota just across the border into South Dakota. Our closest South Dakota school districts with active schools are Lemmon, 30 miles to the East, and Bison, 40 miles to the Southeast.

Northwest School District of South Dakota is currently paying the tuition for our two children (6 and 8 years old) to attend Hettinger Public Schools. Financial concerns in the District will likely force it to close within several years.

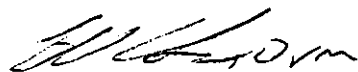
Under current law, closure of Northwest School Districts would result in our district being absorbed by the Bison School District to the South. With decreasing enrollment, local districts have been forced to make decisions based on financial concerns rather than on the interest of the students or their families.

If the Bison District chose to make our children go to their School, we would be forced to sell our home and relocate to Hettinger. Several families have already been forced to move from the Harding County School District in South Dakota to the Hettinger District because of enrollment problems. Both my wife and I are employed in Hettinger and our family is emotionally and economically tied to the community. I own a small business and my wife manages the Wellness Center for West River Regional Medical Center.

We understand that Open Enrollment will not be beneficial to all districts along the border. However, the financial impacts to a handful of districts is far out weighed by the tremendous hardships many families are and will go through without your assistance in solving the existing enrollment problem.

Thank you for your time and we would appreciate your assistance in finding a solution that will be in the best interest of our children and their futures.

Sincerely,



Ethan Andress, DVM

MOTION: AMEND HB 1149

Engrossed.

1149ca

On page 2, line 22 of the printed bill, delete everything after " . " .

On page 2 , delete lines 23 and 24 .

Moved by: McLaughlin

Second by: Hills

Action: Prevailed by voice vote.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

308L0677

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB** **1149** - 02/15/2005

Introduced by: Representatives Dennert, Deadrick, Glenski, Pederson (Gordon), and Rave and Senators Bartling, Hanson (Gary), and Moore

FOR AN ACT ENTITLED, An Act to allow for cross-border education contracts.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
Section 1. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as follows:

A student who resides in a South Dakota school district contiguous to the North Dakota border may attend school in North Dakota, and a student who resides in a North Dakota school district contiguous to the South Dakota border may attend school in South Dakota, if the secretary of the Department of Education has entered into a contract with the North Dakota superintendent of public instruction for the cross-border attendance of eligible students. Any contract pursuant to this Act shall prescribe an application procedure, causes for denial, and manner and notification of acceptance.

Section 2. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as follows:

Any contract entered under this Act shall authorize the secretary of the Department of Education to count any North Dakota student participating in cross-border attendance for the purposes of determining state aid to education pursuant to chapter 13-13. No South Dakota student attending school in North Dakota may be counted in determining attendance for state aid purposes.

Section 3. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as follows:

A contract entered under this Act shall provide that if there are more students from South Dakota than North Dakota participating in cross-border attendance, the secretary of the Department of Education shall forward to the North Dakota superintendent of public instruction, on behalf of each excess student, an amount annually agreed to by the secretary and the superintendent that reflects the average cost of education per student in school districts participating in cross-border attendance in accordance with the contract. The contract must also provide that if there are more students from North Dakota than South Dakota participating in cross-border attendance under this Act, the superintendent shall forward to the secretary, on behalf of each excess student, an amount annually agreed to by the superintendent and the secretary reflecting the average cost of education per student in the school districts participating in cross-border attendance in accordance with the contract.

Section 4. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as follows:

The secretary of the Department of Education shall annually reconcile the number of students from each school district in this state who participate in cross-border attendance under this section with the number of students from school districts in North Dakota who participate in cross-border attendance under this Act.

Section 5. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as follows:

A student who requires special education services may participate in cross-border attendance under this Act, if the contract entered into sets forth each school district's and each state's responsibilities for payment of any excess costs incurred as a result of providing the services to the student.

HB 1194

Decker, Tom G.

From: Greg Miller [gmhk@pop.ctctel.com]
Sent: Friday, January 28, 2005 11:47 AM
To: Decker, Tom G.
Subject: Emailing: HB1149p

Add Notes**State of South Dakota**

**EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005**

308L0677 || **HOUSE BILL NO. 1149**

Introduced by: Representatives Dennert, Deadrick, Glenski, Pederson (Gordon), and Rave and Senators Bartling, Hanson (Gary), and Moore

FOR AN ACT ENTITLED, An Act to allow for cross-border education contracts.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as follows:

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1/28/2005

shall forward to the secretary, on behalf of each excess student, an amount annually agreed to by the superintendent and the secretary reflecting the average cost of education per student in the school districts participating in cross-border attendance in accordance with the contract.

Section 4. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as follows:

The secretary of the Department of Education shall annually reconcile the number of students from each school district in this state who participate in cross-border attendance under this section with the number of students from school districts in North Dakota who participate in cross-border attendance under this Act. The secretary shall withhold from each school district's state aid an amount equal to the cost incurred by the state on the part of the school district in permitting the cross-border attendance of students under this Act.

Section 5. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as follows:

A student who requires special education services may participate in cross-border attendance under this Act, if the contract entered into sets forth each school district's and each state's responsibilities for payment of any excess costs incurred as a result of providing the services to the student.

**TESTIMONY ON HB 1194
SENATE EDUCATION COMMITTEE
February 23, 2005
by Thomas G. Decker, Director
School Finance and Organization
328-2267
Department of Public Instruction**

HB1194 as drafted would replace current provisions of law for cross-border attendance for K-12 students between North Dakota and South Dakota. It puts in place a system of open enrollment in which parents and students choose which school and which side of the border will best serve their needs.

A brief review of cross border attendance history may help get this approach in perspective. Beginning at least as far back as 1971, North Dakota and South Dakota had a reciprocal agreement regarding cross-border attendance. These agreements set a minimum and a maximum amount of tuition that would be paid for students to attend out of state schools. It was adjusted annually by mutual agreement to reflect changing costs. Under this system school districts had to agree to allow a student to attend out of state. Most students who took advantage of cross-border attendance provisions came from areas and families with economic and social connections to a community across the border.

Provisions also changed as the Legislature changed school district organization. For example, in 1987 when a large number of small non-operating districts were required to dissolve, students who lived in those districts and attended schools out of state were grandfathered through a provision that guaranteed cross-border attendance for the rest of the students' K-12 schooling. Those provisions were updated in the early 1990s again.

In the late 90s, South Dakota repealed its reciprocal agreement law. We retained those relationships with Montana and Minnesota until 2001 when we repealed our law.

The repeal of our reciprocal agreement law put us into the current situation and brought about the development of the proposal in HB1194. Remember that North Dakota adopted in-state open enrollment in 1993. Cross-border attendance was dependent upon annual negotiations between North Dakota and South Dakota districts along the border--as was the case with other borders. Whenever school districts were in a position to grant or withhold permission for cross-border attendance, that issue became a feature of the negotiations between North Dakota and South Dakota districts. The most serious problems in this regard involved the North Dakota/South Dakota west river border districts. Students and their parents went through an annual anxiety session over whether or not their students would be able to continue attending the school of their choice.

This led to a search for better solutions and a series of meetings between border districts and state level officials and parents. Those discussions led to the current effort to adopt parallel open enrollment provisions in both states.

You will hear from some of the border district representatives and from parents who will be affected by the proposed legislation.

HB1194 would allow parents who live in border districts to choose where to send their students to school. Districts of residence on either side of the border would not be able to limit these choices. Receiving districts could refuse open enrolled students only if space or program services for the student were unavailable. An open enrollment application and timelines would be worked out by the two state education agencies with input from border districts.

Payment of tuition would be handled at the state agency level. An annual contract between North Dakota and South Dakota would set a single cost of education figure (for example, \$6500 per student). Arrangements would be agreed upon for special education students. Quite likely each resident district would retain responsibility for any costs over the state average.

The table which follows outlines the state-to-state cost numbers. The table shows that 20 more students attend school in South Dakota than come into North Dakota. For the first year of the biennium, North Dakota would owe South Dakota \$130,000.

	Year 1	Year 2	Total
Net students out	20	20	40
Cost of Ed	6,500	6,825	13,325
Total Cost	130,000	136,500	266,500
State Fnd Aid	3,271	3,391	6,662
Local Share	3,229	3,434	6,663
Local Deduction	64,576	66,676	133,252
State Fnd Aid to SD	65,424	67,824	133,248

Within North Dakota each border district with a net outflow would be assessed their share of the cost. Currently, cross-border students are eligible for 120% of foundation aid. If a district has a net outflow, we would withhold the local share for those students from the district's foundation aid. As you can see from the table, districts who have a net outflow would cover about half the net cost to South Dakota. The balance would come from the state foundation aid pool.

Cross-border students would be treated like resident students for payment of state aid in both states. Districts would report these students as cross-border students for purposes of the annual settlement between the states. In all other ways, they would be treated the same as a North Dakota student who open enrolls between districts within North Dakota.

Transportation is optional. Miles traveled within North Dakota could be reimbursed if our system allows that.