

N.D.A.G. Letter to Mushik (July 11, 1991)

July 11, 1991

Honorable Corliss Mushik
State Senator
P.O. Box 188
Mandan, ND 58554

Dear Senator Mushik:

Thank you for your March 22, 1991, letter. I apologize for the delay in responding. In your letter you ask how a majority vote of qualified electors in a reorganized district is calculated. You also ask whether a reorganized district which votes to remove their transportation obligation may charge fees for transportation in the same manner that nonreorganized school districts may charge transportation fees.

Your first question was answered in a June 3, 1985, letter to the Traill County state's attorney. In that letter I concluded that a majority vote was required for each geographic area. The "geographic area" referred to in N.D.C.C. §§ 15-53.1-19 and 15-53.1-39 "are the original districts or parts of districts involved in the original reorganization plan." Thus, a majority vote is required in each area within the new district which originally comprised a district prior to the reorganization. Letter to Stuart A. Larson from Nicholas J. Spaeth dated June 3, 1985. The 1987 amendments to N.D.C.C. § 15-27.3-19 did not change this conclusion.

I recognize that this result may not further the purpose of a reorganized district because it requires the district to return to old boundaries which were removed during the reorganization. To that extent, the reorganized district's vote on issues will not recognize the changes implemented by the reorganization or the changes which may have occurred since the reorganization. Nonetheless, the Legislature did not change this result when it had an opportunity to do so in 1987. If this result is not satisfactory to reorganized school districts, they should consider contacting their legislators to amend the statute.

Your second question is whether a reorganized school district which has removed the restriction on transportation may charge transportation fees. In my August 15, 1990, letter to you I concluded that a reorganized school district is not authorized to charge transportation fees. Consequently, even though a reorganized school district changes its reorganization plan to remove its transportation obligation, it may not charge a fee for providing transportation because it continues to be a reorganized school district.

Sincerely,

Nicholas J. Spaeth