

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2279

2007 SENATE EDUCATION

SB 2279

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2279

Senate Education Committee

☐ Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: 1759

Committee Clerk Signature



Minutes:

Chairman Freborg opened the hearing on SB 2279, a bill relating to the reimbursement of school districts for special education. All members were present.

Senator Bakke introduced the bill. (Written testimony attached)

Senator Flakoll asked if the bill is a request for the entire amount for all costs.

Senator Bakke said we would pay 35% of all excessive costs for a special needs student.

Senator Gary Lee asked for a clarification.

Senator Bakke said the state would pay 35% of the cost of special education in the first year of the biennium, 40% in the second.

Senator Gary Lee said not on a per student basis, just 35% of whatever the cost is.

Senator Bakke said it would be just like going to the grocery store, whatever you put in your cart, you pay 35%.

Senator Flakoll asked how the contract students play into this scenario?

Senator Bakke said we would pay 100% of the cost of children in residential facilities. For high cost contract students, the state would pay 35% of costs.

Senator Gary Lee asked about the fiscal note, \$60.5 million is earmarked in SB 2013 so the \$57 million in the fiscal note that is what needs to be covered in the biennium?

Senator Bakke said she is confused by the fiscal note, everyday she keeps getting a new one and they keep going down but today that is the price.

Senator Bakke distributed the testimony of Linda Jenkins, Director of Special Education for the Grand Forks Unit. (Written testimony attached)

Representative Wolf testified in favor of the bill. Because of tight budgets, teachers may have several (12 – 18) kids on IAP in a class, many need aids but there is no funding. Teachers do the best they can but with adequate funding, kids will get the best education.

Mark Sanford, Superintendent of Schools for Grand Forks and Grand Forks Air Force Base Public Schools testified in favor of the bill. (Written testimony attached) ) The federal deficit is 23 mills and the state deficit is 39 mills. 30% of their mill levy goes to special education.

Senator Flakoll asked if this proposal aligns with the interim committee on special education recommendations?

Dr. Sanford said yes and no. It aligns with the recognition there needs to be greater commitment from the state. It is different in terms of the formula, the distribution method. The committee report walks the line, it says it is okay to use the census method and its okay not to do it. The census method, particularly when it is dramatically under funded, goes against everything the Governor's Commission does in SB 2200 in the creating of equity. As you get lower and lower local involvement, obviously you clear up equity issues.

Dan Huffman, Assistant Superintendent for the Fargo Schools, testified in favor of the bill. (Written testimony attached)

Bev Neilson, North Dakota School Boards Association, testified in favor of the bill. For a long time they have asked for support of special education. They agree that with the hard work of the Governor's Commission, this should flow through the equity formula.

Robert Rutten , Director of Special Education, Department of Public Instruction, testified in favor of the bill. (Written testimony attached) Department of Public Instruction was asked to prepare the fiscal note for this bill.

Senator Bakke asked if the weighting factor in SB 2200 adequately funds special education?

Dr. Rutten said no.

Senator Flakoll said he would like to speak with Jerry Coleman this afternoon about the fiscal note.

Doug Johnson, Executive Director of the North Dakota Council of Educational Leaders, testified in favor of the bill. Their council has adopted a position the last 2 or 3 sessions to increase the funding of special education from the current 22% to 45% of the cost of special education. They recognize the importance of the work done by the Governor's Commission on SB 2200 and they encourage the appropriation be calculated within the factoring system of SB 2200.

Senator Gary Lee asked about his figure of 22%. Does SB 2200 advance that number?

Mr. Johnson said the percentage is a reflection of the dollars available and is set at .167, should the dollars be appropriated for this bill that factor would increase.

Senator Flakoll said in the information from Bob, special education costs have risen 7.8% annually, will that trend continue?

Mr. Johnson said he hears from his members that they anticipate seeing the costs continue to rise. Staff is hard to find and is expensive.

Gloria Lokken, President, North Dakota Education Association, testified in favor of the bill.

They always urge support on the federal level when they meet with the congressional delegation. They always work for additional funding in the state. All of our children deserve mandated services.

Bruce Murray, North Dakota Protection and Advocacy Project testified in favor of the bill. He urged the committee to consider the McCommish testimony they heard on SB 2200 regarding out of state placement. Some of the increased funding referenced in this bill could address some of those concerns about out of district placement.

Chairman Freborg closed the hearing on SB 2279.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2279

Senate Education Committee

☐ Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: 2131

Committee Clerk Signature



Minutes:

Chairman Freborg opened the discussion on SB 2279. All members were present.

Senator Bakke introduced an amendment to the bill that clears up the language and makes it easier to understand the intent of the bill. This makes it more of a straight percentage of 35 and 40% of costs over and above foundation aid payments.

Chairman Freborg said all other monies that they receive on behalf of that child are out of the mix.

Senator Bakke said yes, she believes so.

Senator Taylor said the language initially to reflect what payments to the school? If this bill were to pass, this would be the special education money; there would be no other payments to the school?

Senator Bakke said they really only receive money from the state for special education.

Senator Flakoll asked about the federal money for special education?

Senator Bakke said that flows through the state.

Chairman Freborg asked the value of the amendment.

Senator Bakke said from what she understands, that is why the fiscal note is coming down, because of that clarification.

Chairman Freborg said she doesn't have any idea how much it may be.

Senator Bakke said no.

Senator Flakoll asked for a "for instance".

Senator Bakke said for instance a child who requires occupational therapy and physical therapy and the cost to the school district is \$6000 to provide those services over and above foundation aid, the state would pay 35% of \$6000.

Chairman Freborg said he doesn't think we should take action without a fiscal note. It would be good to have this afternoon.

Chairman Freborg closed the discussion of SB 2279.



## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2279

Senate Education Committee

☐ Check here for Conference Committee

Hearing Date: January 30, 2007

Recorder Job Number: 2332

Committee Clerk Signature

Minutes:

Chairman Freborg opened the discussion on SB 2279. All members were present.

Senator Bakke said this bill has a huge fiscal note, she has been given enough grief about the huge fiscal note. She is trying to send the message that one of the biggest under funded mandates in the history of education is turning out to be special education. The state of North Dakota continues to be significantly behind all other states in the percentage of that funding we provide at the state level. If you look at some of the testimony we had, most states are paying close to 45%, we are still at 22. We have to make some headway in special education. We can't continue to ignore special education funding.

Senator Flakoll said he is more inclined to support something with dollars set up in a schedule, where we would move the rate on a biannual basis until we get to the level where we want to be. If we were to apply this same model in funding schools, it would lead us down a path with problems in equity. When you look at the cost per pupil across the state, there are differences and this could exacerbate the problem.

Senator Bakke said the intent of the bill is to say I pay the price when I go shopping. You can't say oops I don't have the money at the store. Here is the actual cost, pay 35%. Oftentimes the state says they will pay a certain percentage and then they say oops, they don't have the

money. We need to be aware of what special education services are doing to our local communities.

Senator Taylor said we have lots of information on the table. What has the most merit is the comparison nationally. We need to chart a course to take more of the burden. It's a little bit immoral to expect so much of the local, so little of the state.

Senator Gary Lee asked if the \$60,500,000 in the executive budget is an increase.

Senator Bakke said she was told they put \$2 million in?

Senator Flakoll said there is \$2 million additional money in contracts and \$6 million in per student payments in 2200.

Senator Gary Lee asked if the 22% figure will still be accurate.

Senator Flakoll said its impossible to predict. Some school district have a normal growth rate of 7%. In the last six years there was an increase of 7.8% in special education costs. 2200 has a notable amount of dollars.

Senator Gary Lee said there are additional funds over previous bienniums.

Senator Flakoll said yes, we have gone from \$52.5 million to \$60.5 million.

Senator Bakke said she was told they would be going to about 16 cents on the dollar with the additions from 2200.

Senator Flakoll said aside from contracts, other money that is in there for special education is kind of set off to the side for special ed but whether we put per student payment or base funding, each school would get exactly the same amount of money either way. That portion of it is paid out on a per student basis.

Senator Bakke said special ed is based on per pupil, it doesn't depend on more kids in special ed. This bill is saying those school district with more special ed kids should get more money.

Chairman Freborg said how much does this amount to on the dollar? Who said it?

Senator Bakke said 16 cents on the dollar. Bob Rutten and Gary Gronberg told her. To her that means they are going down instead of up in special ed funding.

Senator Flakoll said that may be in the context of contracts, we pay 16 – 17 cents of the marginal area. That may be the reference point.

Senator Flakoll said with respect to the previous inquiry, historically schools have said they would rather now they get a certain amount of dollars for special ed. There was some complex data put together by Department of Public Instruction that broke it out by the various categories and there was not much difference. He has introduced bills when the money followed need, it wasn't even close.

Senator Bakke said she has some figures that addresses the point from Addy Schmaltz, handout attached.

Senator Flakoll asked if this is 140 students or increased number of students.

Senator Bakke said she thinks it is increased number of students.

Senator Flakoll said he is having trouble with the numbers (meter 20:00)

Senator Bakke said that is what Addy says.

Senator Flakoll said he has an amendment related to this that he prefers.

Senator Bakke moved a Do Pass and Rerefer to Appropriations on SB 2279, seconded by Senator Taylor.

The motion failed 2 – 3.

Senator Flakoll moved a Do Not Pass on SB 2279, seconded by Senator Gary Lee.

The motion carried 3 – 2. Senator Flakoll will carry the bill.

# FISCAL NOTE

Requested by Legislative Council

01/23/2007

## REVISION

Bill/Resolution No.: SB 2279

**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.*

|                | 2005-2007 Biennium |             | 2007-2009 Biennium |             | 2009-2011 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |
| Expenditures   | \$0                | \$0         | \$57,450,000       | \$0         | \$57,450,000       | \$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.*

| 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  | 2009-2011 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
| \$0                | \$0    | \$0              | \$0                | \$0    | \$0              | \$0                | \$0    | \$0              |

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill provides reimbursement to school districts for special education costs.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

In the first year, the state would reimburse school districts 35% of unreimbursed special education costs. The second year 40% of unreimbursed costs would be reimbursed.

**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.*

Estimated expenditures based on \$125,000,000 the first year and \$130,000,000 the second year at 60% cost to districts and at 35% and 40% would be \$57,450,000 of which 60.5 million is earmarked in SB 2013.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

\$60,500,000 is currently in the Executive Budget. This bill would require an additional \$57,450,000 for the 2007-09 biennium.

|               |               |                |                    |
|---------------|---------------|----------------|--------------------|
| Name:         | Robert Rutten | Agency:        | Public Instruction |
| Phone Number: | 328-2277      | Date Prepared: | 01/23/2007         |

**FISCAL NOTE**  
Requested by Legislative Council  
01/22/2007

**REVISION**

Bill/Resolution No.: SB 2279

**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.*

|                       | 2005-2007 Biennium |              | 2007-2009 Biennium |              | 2009-2011 Biennium |             |
|-----------------------|--------------------|--------------|--------------------|--------------|--------------------|-------------|
|                       | General Fund       | Other Funds  | General Fund       | Other Funds  | General Fund       | Other Funds |
| <b>Revenues</b>       | \$0                | \$48,147,320 | \$0                | \$52,239,842 | \$0                | \$0         |
| <b>Expenditures</b>   | \$52,500,000       | \$48,147,320 | \$186,215,348      | \$52,239,842 | \$0                | \$0         |
| <b>Appropriations</b> | \$52,500,000       | \$48,147,320 | \$60,500,000       | \$0          | \$0                | \$0         |

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

| 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  | 2009-2011 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
| \$0                | \$0    | \$0              | \$0                | \$0    | \$0              | \$0                | \$0    | \$0              |

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Reimbursement would be based on actual costs for Special Education students over and above the costs of regular education.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1.

**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.*

Estimated expenditures based on \$134,637,099 the first year and \$148,100,809 the second year at 60% cost to districts and at 35% and 40% would be \$63,817,985. \$186,215,348 of which 60.5 million is earmarked in SB 2013.

Other funds inflated by 8.5% for budgeting purposes - Part B IDEA Funds.

**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.*

Estimated expenditures based on \$134,637,099 the first year and \$148,100,809 the second year at 60% cost to districts and at 35% and 40% would be \$63,817,985. \$186,215,348 of which 60.5 million is earmarked in SB 2013.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

\$57,750,000 is currently in the Executive Budget. This bill would require an additional \$63,616,953 for the 2007-09 biennium. Projections were based on a 10% inflationary rate per year and also the same inflationary rate was used to project 2009-11 biennium.

|                      |               |                       |                    |
|----------------------|---------------|-----------------------|--------------------|
| <b>Name:</b>         | Robert Rutten | <b>Agency:</b>        | Public Instruction |
| <b>Phone Number:</b> | 328-2277      | <b>Date Prepared:</b> | 01/22/2007         |

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/17/2007

Bill/Resolution No.: SB 2279

**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.*

|                       | 2005-2007 Biennium |              | 2007-2009 Biennium |              | 2009-2011 Biennium |              |
|-----------------------|--------------------|--------------|--------------------|--------------|--------------------|--------------|
|                       | General Fund       | Other Funds  | General Fund       | Other Funds  | General Fund       | Other Funds  |
| <b>Revenues</b>       | \$0                | \$48,147,320 | \$0                | \$52,239,842 | \$0                | \$56,680,229 |
| <b>Expenditures</b>   | \$52,500,000       | \$48,147,320 | \$57,750,000       | \$52,239,842 | \$63,525,000       | \$56,680,229 |
| <b>Appropriations</b> | \$52,500,000       | \$48,147,320 | \$121,366,953      | \$0          | \$133,503,648      | \$0          |

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

| 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  | 2009-2011 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
| \$0                | \$0    | \$257,034,462    | \$0                | \$0    | \$282,737,908    | \$0                | \$0    | \$311,011,699    |

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Reimbursement would be based on actual costs for Special Education students over and above the costs of regular education.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1.

**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.*

Other funds inflated by 8.5% for budgeting purposes - Part B IDEA Funds.

**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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

\$57,750,000 is currently in the Executive Budget. This bill would require an additional \$63,616,953 for the 2007-09 biennium. Projections were based on a 10% inflationary rate per year and also the same inflationary rate was used to project 2009-11 biennium.

|                      |               |                       |                    |
|----------------------|---------------|-----------------------|--------------------|
| <b>Name:</b>         | Robert Rutten | <b>Agency:</b>        | Public Instruction |
| <b>Phone Number:</b> | 328-2277      | <b>Date Prepared:</b> | 01/22/2007         |

Date:

**BILL/RESOLUTION NO.** *2279*

**Senate Education Committee**

☐ Check here for Conference Committee

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

Action Taken Do Pass + Rerefer to Appropriation

Motion Made By Sen. Balke Seconded By Sen. Taylor

[illegible]

Total Yes 2 No 3

Absent 0

## Floor Assignment

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

failed



Date: 1/30/07  
Roll Call Vote #: 2

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2279**

Senate Education Committee

☐ Check here for Conference Committee

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

Action Taken Do Not Pass

Motion Made By Sen. Flakoll Seconded By Sen Lee

| Senators         | Yes | No | Senators       | Yes | No |
|------------------|-----|----|----------------|-----|----|
| Senator Freborg  | ✓   |    | Senator Taylor |     | ✓  |
| Senator Flakoll  | ✓   |    | Senator Bakke  |     |    |
| Senator Gary Lee | ✓   |    |                |     |    |
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|                  |     |    |                |     |    |

Total Yes 3 No 2

Absent 0

Floor Assignment Sen. Flakoll

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

**REPORT OF STANDING COMMITTEE**

**SB 2279: Education Committee (Sen. Freborg, Chairman) recommends DO NOT PASS**  
(3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2279 was placed on the  
Eleventh order on the calendar.

2007 TESTIMONY

SB 2279

2279

Senator Freborg and members of the Senate Education Committee, for the record my name is JoNell Bakke and I am a senator from District 43 in Grand Forks. I am here today to give testimony in support of SB2179. This bill redefines the funding process for Special Education services within our public schools based on a percentage of the actual costs, rather than distribution of funds based on student enrollment with no regard to special education student numbers within a district.

On June 4, 1997, President Clinton signed into law the Individuals with Disabilities Education Act, better known as IDEA in the educational community. This groundbreaking law laid out in detail, the rights and privileges of the disabled pertaining to a free and appropriate education within the public school system. It strengthened academic expectations and accountability for the nation's 5.8 million children with disabilities and bridged the gap that too often existed between what children with disabilities learned and what was required in regular curriculum. Although it carried an enormous price tag, it also carried a promise that 40% would be paid by the federal government and the remaining 60% would be paid by the state with some help from local school boards. Thus our country started down the path of probably one of the most significantly unfunded mandates to ever hit public education. IDEA has become the epitome of unfunded mandates and is one of the reasons that educational costs have escalated at an alarming rate within our local communities.

In July of 2006, North Dakota commissioned a study of Special Education Funding in North Dakota by the American Institutes for Research. This study provided many recommendations and suggestions as part of their written reports. In this report, they talked about the breakdown of funding across the country. Table I shows the results of this breakdown. As you can see, North Dakota is significantly behind the rest of the nation in support for special education at the state level. This leaves most local school boards and communities with a significant amount of the cost to be paid out of local revenue sources, including property tax.

*Federal, State and Local Shares of Special Education  
Spending the Nation and North Dakota*

| Funding Sources | National Average<br>1998-1999 | North Dakota<br>2003-04 |
|-----------------|-------------------------------|-------------------------|
| Federal Share   | 8%                            | 16.4%                   |
| State Share     | 45%                           | 22.4%                   |
| Local Share     | 47%                           | 61.2%                   |

When looking at property tax relief, a rebate or a \$100 check in the mail is only a one time solution to this problem. If we want our property taxes to return to a permanent reasonable level within our communities, then the state and federal governments need to invest in some service at the local level. What better service than education? Research shows that the single factor to increase economic development, turn around declining population, and improve the quality of life for all is an investment in the public and higher education systems.

The bill I have submitted for your consideration today asks that special education services be reimbursed to the local school districts based on actual costs, not blanket payments according to the number of students in the district. It calls for the state to pay 35% of the cost of foundation aid in the first year of the biennium and 40% in the second year of the biennium. The fiscal note for this bill is substantial, but I feel that this is the result of many years of flat funding for special education in this state. We need to make a move to correct the funding of education in this state and this would be one step in that direction.

Thank you for your consideration of this piece of legislation.

My name is Linda Jenkins and I am the Director of Special Education for the Grand Forks Special Education Unit. I appreciate this opportunity to support SB 2279.

Special education is not so "special" anymore. It is an integral part of every school and impacts every student, teacher and administrator; not just students with disabilities. We all know that special education is expensive. I believe the money invested in special education not only helps students with disabilities become taxpayers rather than tax burdens, but also helps general education. Without proper funding, students with disabilities don't get sufficient support and classroom teachers are stretched so thin that they cannot provide quality teaching for anyone. Without proper funding, all teachers miss out on training that helps them learn to effectively teach all students academic and behavioral skills.

The funding for special education falls largely on local property tax. Federal funding has never risen to the promised level, and state funding has remained at a low level for years. Because school districts and special education units recognize the critical importance of providing education for ALL students, they continue to rely on the already stretched-thin local taxpayer.

School districts and special education units need the help of legislators in order to provide for the educational needs of special education students without impacting funds needed for general education, and without putting so much pressure on local taxpayers. Students with disabilities need your help so that they can receive quality education and meet high expectations. Typical students need your help so that there are sufficient resources for them to get the education they need. SB 2279 will provide this help.

Thank you.



# Grand Forks Public Schools

*A Great Place to Grow and Learn!*



*Established 1881*

Mission Statement:  
To Provide Opportunities for All Students to Develop Their Maximum Potential

Grand Forks Education Center  
PO Box 6000 (58206-6000)  
2400 47<sup>th</sup> Avenue South (58201-3405)  
Grand Forks, ND  
[www.gfschools.org](http://www.gfschools.org)

Mark Sanford, Ed.D.  
Superintendent of Schools  
Phone: 701.787.4880  
Fax: 701.772.7739  
[mark.sanford@gfschools.org](mailto:mark.sanford@gfschools.org)

January 23, 2007

Senate Education Committee  
State of North Dakota  
Bismarck, ND 58501

Senator Freborg and members of the Senate Education Committee:

My name is Mark Sanford. I am the superintendent of schools for Grand Forks and Grand Forks Air Force Base School Districts. I am here to offer testimony in support of SB2279.

Special education is a significant component of the PreK-12 education enterprise. In North Dakota, approximately 14,000 students are receiving services provided by qualified and caring professionals. Special education in our state is something we should appreciate for the good work that is accomplished and the results our students are achieving. In my role as superintendent of Grand Forks Air Force Base School District #140, I am consistently informed by that community of their respect for the North Dakota way of delivering special education. Special education delivery, whether through individual districts or multi-district units, is managed well except for one glaring deficiency. That deficiency is the funding system that supports this program.

Special education funding in North Dakota has features that make it a significant factor in attempts to create an equitable and adequate system of state funding support. These features include:

- It is mandated.
- The costs are substantial.
- The federal government under funds its promised share of the costs (18.6% versus a stated goal of 40%).
- The state government under funds its intended share of the costs (21.6% versus a goal of 60%).
- Property tax is the major source of financial support in North Dakota.
- Property tax wealth varies significantly around the state.
- Equity is disturbed because of this reliance on property tax.

The funding system proposed in SB2200 continues down the same path as the current system and does not provide equity on this significant expenditure. Equity is not easily achieved. There is a resource side to equity that may include efforts to ensure reasonably equivalent monetary resources to districts when considering their state and local income. While this is a feature of

SB2200, it does not include, as some would espouse, features that would factor in "ability to pay" differences that exist from community to community.

There is also an expenditure side to equity. This side of the equity equation attempts to recognize cost differentials for various programs (summer school), school sizes, and student needs (at-risk). On the expenditure side, it is realistic to expect a state would define its aspirations for its students, identify the programs and resources necessary to support those aspirations (all day kindergarten, class size, extended year, levels of achievement, curriculum standards) and tie this information into the funding system. I do not believe this has been done other than in the Augenblick study of 2003. This lack of common expectation exacerbates equity and adequacy attempts. However, one expenditure that would be consistent and common to any vision for PreK-12 education would be special education. As noted, it is mandated and backed by strong ethical and regulatory values that ensure school districts provide high quality services. Districts must provide special education. Providing the services that advance all children to better realize their potential is the right and moral thing to do. The regulations provide strong guidance on appropriate service levels.

The cost of special education services is significant totaling an estimated \$122.4M in 2005-06. The federal government provided \$22.8M (18.6%) of that funding, which was less than half of the 40% promised in IDEA. The state provided \$26.4M (21.6%), which was less than half of the 60% state share imagined in IDEA. The remaining \$73.2M is financed by local means, i.e., the property tax. In other words, 59.8% of the costs are local, which compares to IDEA's intended 0%. This equates to 44 mills when levied on the statewide taxable valuation for all school districts.

The costs of special education at the district level depend on numbers of students served and the nature of services necessary to meet the needs of those students. Variances in these factors, and others, create local differences in cost, which in turn create differences in the amounts of property tax dollars needed from district to district to pay those costs. Not only do the costs vary, but so too does the taxable wealth of districts. When you examine these implications, you find that the local mill levy required to pay the costs ranges from modest to significant. For example, Bismarck's unfunded balance requires almost 20 more mills than Fargo's or West Fargo's while Grand Forks requires over 20 more mills when compared to those same two districts. Another way of looking at this is the local effort for special education in Bismarck is almost 150% of the effort in Fargo. More extreme examples could be shared but these more moderate illustrations demonstrate the inequity of local costs when dependent on property tax. All of the districts in the above illustrations are under funded and all pay significant property taxes; however, the property tax impact is inequitable because of the tax base differentials.

So, how could the state approach the funding of special education more appropriately?

The Department of Public Instruction commissioned a comprehensive school finance study in 2002-2003. They employed the Denver firm of Augenblick, Palaich and Associates, Inc. Their



June 2003 report suggested adjustment factors for special education based on North Dakota costs.

Special Education

| <u>Enroll.</u> | <u>Mild</u> | <u>Mod.</u> | <u>Severe</u> |
|----------------|-------------|-------------|---------------|
| 50             | .54         | .50         | 1.01          |
| 100            | .66         | .63         | 1.32          |
| 200            | .91         | .89         | 1.94          |
| 300            | .95         | 1.44        | 2.96          |
| 400            | .99         | 1.99        | 3.98          |
| 500            | 1.04        | 2.54        | 5.00          |
| 750            | 1.07        | 3.07        | 6.00          |
| 1,000          | 1.06        | 3.03        | 5.96          |
| 1,500          | 1.03        | 2.96        | 5.89          |
| 2,000          | 1.00        | 2.89        | 5.81          |
| 2,500          | .98         | 2.82        | 5.74          |
| 4,000          | .90         | 2.61        | 5.51          |
| 6,000          | .79         | 2.33        | 5.21          |
| 10,000         | .57         | 1.77        | 4.61          |

SB2279 proposes a variation of the above illustrated system brought into harmony over time with IDEA's intended cost sharing. It imagines state support on a percentage basis of local costs. Factors impacting costs locally such as numbers of students served and levels of service are more equitably supported by this system. It imagines that the state would establish a goal of intended support levels by the state and local and work towards that goal. See example below:

Special Education Funding Goals

| <u>Year</u> | <u>Federal</u> | <u>State</u> | <u>Local</u>             |
|-------------|----------------|--------------|--------------------------|
| 2007        | 40%            | 35%          | 25% plus federal deficit |
| 2008        | 40%            | 40%          | 20% plus federal deficit |
| 2009        | 40%            | 45%          | 15% plus federal deficit |
| 2010        | 40%            | 50%          | 10% plus federal deficit |

If the 2010 cost sharing was the goal (and we think it is appropriate) you could see the following outcomes:

- Greater equalization of costs
- Less reliance on the property tax; it becomes a tax relief bill
- Greater opportunity to demonstrate to the federal government the need for it to live up to its 40% promise
- Less paperwork for special education—a substantial benefit in an area infamous for reports and paperwork

Senate Education Committee  
January 23, 2007  
Page Four

- Ability to incorporate this system right into SB2200
- Greater predictability of funding requirements for state and local
- A defined commitment from the state

We recognize that some alignment of other state statutes would be required upon passage of this bill.

The time is long overdue for the state to "step up" in funding support targeted at special education. This bill proposes a straightforward manner for accomplishing increased support in a more equitable manner.

That concludes my testimony, Mr. Chairman. I will attempt to answer any questions you may have.

Sincerely,

Mark Sanford, Ed.D.  
Superintendent of Schools

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*60<sup>th</sup> Legislative Session  
State Senate  
Senate Education Committee  
SB2279*

Senator Freeborg and members of the Senate Education Committee, my name is Dan Huffman, Assistant Superintendent for the Fargo School District and I am here today to speak in favor of the funding for special education included in SB2279. As a district, we believe that a more appropriate funding for special education will have a positive impact on the education for all students.

Senate Bill 2279 provides funding for an increased share of special education costs with state dollars. The Fargo School District supports this effort. We believe that the state should establish a goal to fund special education costs at the same level as regular education costs. This bill moves in that direction with 35% of the cost funded in 2007-2008 and 40% funded in 2008-2009.

In 2005-06 the state funded 17.7% of the total cost of the special education program in the Fargo School District. The federal government funded 17.1% of the cost. The district collected 7% through tuition from other districts. Local resources funded the remaining 58.2% of the total direct costs for the special education program.

State resources need to fund a higher percentage of these costs. However, we believe that this funding should not occur in a distribution separate from the formula proposed in SB2200. If this new formula becomes the distribution mechanism for school funding, and we believe it should, then the distribution of increased special education dollars should occur by increasing the factor for special education ADM to a level that distributes this 35% and 40% accordingly. That is exactly how the formula is supposed to work as we move towards adequacy.

This bill should receive favorable consideration from the committee as we move toward adequate funding of education in North Dakota.

Testimony provided by

Dan Huffman  
Fargo Public School District #1

**TESTIMONY ON SB 2279**  
**SENATE EDUCATION COMMITTEE**  
**January 24, 2007**  
**by Robert Rutten, Director of Special Education**  
**328-2277**  
**Department of Public Instruction**

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Mr. Chairman and members of the committee:

My name is Bob Rutten and I serve as the director of special education in the ND Department of Public Instruction. I am here to provide some background information for the committee as you consider the plan submitted this morning through SB 2279.

Since 2001 North Dakota's federal funding for special education has nearly doubled.

|      |                               |
|------|-------------------------------|
| 2001 | 02 (Fed FY 01) = \$14,577,804 |
| 2006 | 07 (Fed FY 06) = \$24,966,470 |

In that same period of time funding appropriated for special education by the state has remained fairly flat.

|      |                            |
|------|----------------------------|
| 2001 | 03 biennium = \$49,898,695 |
| 2005 | 07 biennium = \$52,500,000 |

Also within this same period of time the number of children identified as having disabilities and requiring special education has risen.

|      |        |
|------|--------|
| 2001 | 13,630 |
| 2005 | 13,883 |

Special education expenditures for providing services to these children have also risen.

|         |               |
|---------|---------------|
| 2000-01 | \$88,014,433  |
| 2005-06 | \$122,777,355 |

For several years local school districts have been in the position where they have not been fully reimbursed by the state for special education student contracts. Student contracts are our state's "high cost risk pool" system for covering unusually high special education costs.

In light of this set of facts, the Department of Public Instruction became increasingly concerned about our state's formula for funding special education. Furthermore, a number of local special education administrators, superintendents, business managers, and legislators also expressed their concerns to us that the state share of special education expenditures is insufficient.

It was against this background in August 2005 that the Department of Public Instruction contracted with Drs. Tom Parrish and Jenifer Harr of the Center for Special Education Finance (CSEF) of the American Institutes for Research to provide assistance to North Dakota in considering changes to our special education funding formula. Dr. Parrish is widely considered to be the leading authority in the nation on this narrow topic.

The following research objectives were identified:

1. Obtain objective critical stakeholder input regarding the merits and shortcomings of the North Dakota current funding formula for special education, including student contracts;
2. Obtain a neutral analysis of the efficiency of the state's current funding formula;
3. Obtain national professional recommendations for improvement to the state's current system;
4. Prepare appropriations requests for the 2007 North Dakota legislative session based on the study's recommendations;
5. Prepare possible draft legislation to revise the current North Dakota special education funding formula as contained in the North Dakota Century School Code.

A large broadly based stakeholder group was identified to work with Drs. Parrish and Harr and the Department of Public Instruction. Workgroup members from across the state included special education administrators, superintendents of large and small districts, school district business managers, a state legislator, representatives from other agencies, parents and advocates for children with disabilities, fiscal and educational program personnel from DPI.

The work of our researchers and the stakeholder task force was well underway during the last school year when an out of court settlement was reached in regard to the pending law suit over North Dakota school funding. In January 2006 Governor Hoeven announced the formation of the North Dakota Commission on Education Improvement to consider K-12 funding in the state, including special education.

The Department of Public Instruction completed its study of special education funding in July, 2006. The final report and recommendations of Drs. Parrish & Harr were published and subsequently largely adopted by the North Dakota Commission on Education Improvement.

It is important to put this study in context. To quote from the final report:

*"The five research objectives (of this study) relate to policy issues that cannot be answered by data analysis alone. Any approach to addressing these kinds of policy questions must reflect the unique context in which*

*North Dakota operates, and this involves soliciting the perspectives of local, district, and state stakeholders. Thus, in addition to thorough analyses of extant state data, the investigative part of this study relied heavily on the information, comments, and opinions of the stakeholder committee convened for this study. We conducted analyses on these state data and synthesized findings from the committee deliberations. Our final analyses and proposed recommendations are based on our knowledge of federal special education policy and law, the history and current practice of special education funding across the 50 states, as well as an objective analysis of the information gathered for this project considered in the context of prior practice, current issues, and goals for the future of North Dakota as articulated by this stakeholder group."*

In a brief summary of the results of this study Drs. Parrish & Harr wrote:

*"We find overall special education spending in North Dakota to be fairly closely in line with what is found nationally. In regard to state versus local shares of funding, the state appears well below the average state versus local split in support for special education services found across all states. This seems to be the primary basis for one of the major concerns expressed by the study's stakeholder committee i.e., that the state share of special education expenditures is insufficient." (American Institutes for Research,*



*Special Education Funding in North Dakota: An Assessment of Current Practice and Recommendations for the Future, p.1.)*

The landmark legislation that proposes to reform education funding in North Dakota, Senate Bill 2200, incorporates most of the recommendations that emerged from DPI's special education finance workgroup and the researcher's final report. The bill doesn't include a specific recommendation to bring state and local funding amounts into alignment. We were assured by the ND Commission on Education Improvement, however, that the additional funding necessary to implement the recommendations of our special education finance study for funding adequacy will be considered in future work of the Commission.

In light of the extensive and serious work of the ND Commission on Education Improvement, the bill that appears before you this morning presents a unique situation for all of us. The funding proposed in SB 2279 would require the state to significantly increase its share of special education funding. Having worked hard to achieve that goal for a number of years, it might seem that all of us who work in special education would be enthusiastic supporters of this bill. The dilemma we face, however, is our history of fairly level state funding for special education. Past history would suggest that if the Department of Public Instruction proposed the special education funding plan contained in SB 2279, it would not be likely to succeed in the State Legislature.

With full respect for each of you and with sincere appreciation of your hard work to improve funding for special education, should we pursue immediate full state funding? Or should we follow the Education Commission's recommendation to establish a target percentage for state special education funding and to raise the special education percentage over time?

Considering that the North Dakota Commission on Education Improvement and SB 2200 endorse increased funding for education, our agency has strongly supported the Commission and SB 2200. We are supporters of the consensus approach to resolving the complicated issues brought forward by the plaintiff school districts in their lawsuit against the state. Listening last week to the testimony on that bill, it seems that a broad base of support has emerged for SB 2200. It appears to have a reasonable chance of succeeding. You have a better understanding of that than I do.

Drawing on their extensive experience and their national perspective, our researchers repeatedly cautioned the North Dakota special education finance workgroup to be wary of efforts that force the multiple interests in education to compete with each other for limited funds. Their recommendations include:

*"an emphasis on combining special with general education funds. Several rationales were cited for this combining of funds. First, it would no longer divide the general and special education legislative requests and would*

*better enable public education to speak with a single voice. Second, this might enhance the integration of general and special education services, acknowledging that all students are general education first, and emphasizing the state policy emphasis as well as a federal law that special education children be served in the least restrictive environment appropriate to their needs."*

*(American Institutes for Research, Special Education Funding in North Dakota, p.15.)*

Proposed amendment to Senate Bill 2279

Page 1, line 15, remove "less any moneys received by the district on behalf of the"

Page 1, line 16, remove "student"

Page 1, line 17, remove "of the remaining amount"

Page 1, line 18, remove "of the"

Page 1, line 19, remove "remaining amount"

1/29/07  
distnb. by Sen Bakke

**Bakke, JoNell A.**

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**From:** Schmaltz, Addy M.  
**Sent:** Thursday, January 25, 2007 10:18 AM  
**To:** Bakke, JoNell A.  
**Subject:** Student Contracts

Senator Bakke,

I hope the following information is useful. Please feel free to call me if you have any questions.

Payments for student contracts: (approximate numbers)

4.5 times \$17,500,000  
4.0 times \$18,500,000  
3.5 times \$20,206,000  
3.0 times \$22,405,000

Addy Schmaltz  
Department of Public Instruction

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1/25/2007

*Sen Bakke*  
*1/30/07 22179*