

# MICROFILM DIVIDER

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



ROLL NUMBER
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DESCRIPTION

1292

2007 HOUSE EDUCATION

HB 1292

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1292**

## House Education Committee

Check here for Conference Committee

Hearing Date: **29 January 2007**

Recorder Job Number: **2129**

Committee Clerk Signature

*Jan Prindle*

Minutes:

**Representative Jim Kasper, District 46 introduced the bill.** I have had occasion to visit with many teachers in the classrooms. I have heard their frustration with what goes on in many classrooms in the Fargo area. Students because of their not understanding the English language are also frustrated. Those kids who are proficient in English are also frustrated because time is taken away from them to devote to those who do not understand English. We need to try to do something different for our refugee students at least in the Fargo area. I cannot speak for other parts of ND. We have 800 or more refugee children in Fargo. Why don't we try a program whereby we take the kids that don't understand English and put them in an English class until they learn English? Then when they go back to the classroom, it will be a better experience for everybody. But in dealing with federal rules, we cannot do that. The Fargo area is working on a pilot project moving in those directions right now. When the price tag on this bill came out at over \$12.0 we realized that however good the concept is, this bill is not going to work. We pared the bill down to offer a pilot project in this area of learning that will have a substantially lower price tag and see if we can come up with a project that will be better for the whole state of ND. What you will see is some amendments that will address that area.

**Representative Bette Grande, District 41**, testified in favor of the bill. As we continue with a growing number of immigrants and refugees coming into the US and ND, we are finding a burden inside the classroom. We see it not only with the teacher but amongst the students trying to understand each other trying to keep up with what's going on. The student that doesn't have a grasp of the language falls farther and farther behind and you have to hold the whole class back until that child catches up. If we can do anything to help these students to be brought up to par as quickly possibly, it will be beneficial to everybody involved. One of the things we need to keep in mind is that these students when they have the opportunity to catch up and participate in the class, is to remember that these people will be US citizens and citizens of the state of ND. We need to give them every opportunity possible to fulfill their potential.

**Representative Kathy Hawken, District 46**, testified in favor of the bill. You have heard me speak on this particular topic. One thing I would add is that when you look at those amendments, there is a possibility of doing a welcoming center. That is a pilot project that would be extremely beneficial as far as addressing some of the language needs in our community. We've had problems in the past over bills that we have passed and what has happened to them. I would ask that you watch very carefully when you decide what you would like to do to make sure the language is specific and the legislative intent remains.

**Representative Karls:** You mention a Welcome Center. What is it?

**Representative Hawken:** It is a thought that all of the services needed by our new people into the community, we could do the language immersion training with social services issues and all those kinds of things would be in one spot. The immersion would not be just for school aged children, but also for the parents even though that would be a different funding.

**Mari Rasmussen, assistant director for the DPI**, testified in favor of the bill. **(Testimony Attached.)** She discussed the data enclosed with the written testimony she provided. She

provided two amendments to the bill and went over those with the committee. She reiterated that a pilot project would be a great idea that could be disseminated across the state.

**Chairman Kelsch:** With these amendments for only a pilot project, the fiscal note would go down from \$12.0 million to \$500.0.

**Rasmussen:** Right.

**Representative Haas:** Have you searched nation wide to try to find existing immersion type programs or other types of English language learners programs that are in place and working that could possibly be replicated in ND rather than us setting up our own pilot program?

**Rasmussen:** Yes and No. Some of my work is to be aware of best practices and I have been working with Fargo to see what they have done. Some of us went to a conference in Chicago on refugees and we visited a newcomer's center in one of the suburbs. When I go to national conferences, I see what works. What Fargo would like to do is a combination of different pieces. What works in Illinois may not work in Fargo so they take pieces of this and pieces of that.

**Representative Johnson:** In SB 2200, is there any legislation like this?

**Chairman Kelsch:** We did not talk specifically about doing any sort of pilot project but the ELL appropriation and language is in the bill. To my knowledge is still intact. It has \$650.0.

**Representative Johnson:** So this would be an additional \$500.0?

**Chairman Kelsch:** Yes it would. Any school district in the state could apply for this. It was probably written specifically for the Fargo school district. They could still get some of the \$650.0

**Representative Hunsakor:** Do you have any idea how many students in the other schools in our state fall into this category?

**Rasmussen:** We do collect that data for all the school districts in the state for students who qualify for ELL. The total is 5527 in levels 1 through 4.

**Chairman Kelsch:** That would also include our Native American population who also benefit from the ELL program.

**Rasmussen:** It includes any student in ND who fits the definition of limited English proficiency as defined by the federal government. That includes documenting a language in the student's home and an assessment by the trained ESL or Bilingual teacher. The school districts report that to us.

**Chairman Kelsch:** When we heard this issue this summer it was specifically the Belcourt school district that was talking about this. Their primary language is English those students just had difficulty mastering the English language. They are included in that 5527 number.

**Rasmussen:** To qualify they must document that there is another language in the background. That is the law. We have made a great deal of headway working with the school districts in language reporting to get things in place.

**Jim Johnson, member of the Fargo School Board** testified in favor of the bill. He read the testimony of **Vonnie Sanders, the English Language Learner Coordinator for Fargo**, who was unable to attend the hearing due to weather conditions. (**Testimony Attached.**) In answer to a previous question he said they found that Sioux Falls SD has a Newcomer Center that is closest to what Fargo needs. They address level 1 & 2 learners. The challenge is that not only does the student not understand the English language, neither do their parents. Our plans, depending on the funding, are to address the issue from the whole family perspective. That is why this is a community wide endeavor. We envision a need to take a new approach. Our estimate is that it will take \$250.0 per year to implement this approach. That is going to be influenced by what groups like Lutheran Social Services does and the number of new immigrants they bring to the table. Our plan, regardless of the funding source, is to address the issue from the entire family perspective. These children and their parents need to learn socialization skills. They need to learn what a lunch line is. They need to learn what a

bathroom is as hard as that might be to imagine. The needs are greater than just the education of the child. We can't send information home and expect the parent to be able to digest what it means. In one elementary school building we have 42 different language dialects spoken by the student population. That's a pretty daunting task for those classroom teachers. We envision a need to take a new approach rather than just isolate those children one hour a day as we pull them out of their main classroom to do intensive English training. We think we need to address their emotional and physical health which may not be school district issues, but certainly are community issues. We need to address their socialization skills and their family's ability to integrate to the process of living in ND and Fargo and along with that continue our mission to educate these students to bring them up to the standards the state has given us.

**Representative Hunskor:** How many of those are in Fargo?

**Johnson:** We have a little less than 900. Of that group, I would guesstimate 150 are level one and two that are at some stage of moving through the process. It fluctuates greatly as to how many new ones get each year. We never know when they are going to be delivered to our doorstep. Two years ago in the middle of the school year, 75 Sudanese students came in during a 30 day time period none of whom had ever been to school. They ranged in age from kindergarten all the way through senior high.

**Representative Hunskor:** So that leaves about 4600 somewhere else in the state then.

**Johnson:** It does. In our case about 20 qualify as US born ESL. The rest are refugees that come from overseas. My guess is that one half of the total population of non-US born ELLs probably reside in the Fargo school district. Jamestown has a growing student population in this area as does Minot as well. A good number of that 5500 are US born citizens who qualify under this expanded definition.

**Chairman Kelsch:** I think we are going to see increased efforts. In Mandan, Cloverdale meats is having a difficult time finding people to work and a lot of industry is looking to using immigrant workers. With the job market the way it is, this is something we are going to see more students coming in. This is a workforce that other states have utilized that ND hasn't really had an opportunity to utilize them so far. I think we will see more of this population coming into ND.

**Cheryl Bergian, executive director of ND Human Rights,** testified neutral on the bill. She was concerned with one clause, (line 12, item c.) which stated that all students in this state must be taught in the English language. I wanted to draw your attention to that.

**Chairman Kelsch:** In reviewing the amendments, that statement is not included.

**There was no further testimony on the bill and Chairman Kelsch closed the hearing thereof.**



# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1292

## House Education Committee

Check here for Conference Committee

Hearing Date: 31 January 2007

Recorder Job Number: 2485

Committee Clerk Signature

*Jan Prindle*

## Minutes

**Chairman Kelsch:** We can vote this bill up or down, amend it, or hog house it into a study. The ELL issue is currently in SB 2200. This immersion center pilot project is something that needs to be looked at and done; I honestly believe that \$12.0 million will be an uphill battle. I think we are getting ahead of ourselves. A study may be the right way to go.

**Vice Chairman Meier:** Mari Rassmussen gave me some information. Right now, in this state we have 5737 students that are English language learners and 856 youth immigrants.

**Chairman Kelsch:** The numbers I have are for Fargo and the statewide numbers are different. There is a perfect example of different data from one place to another. I think we need to get around that a little bit better.

**Representative Mueller:** What kind of money do we have in the ELL program in SB 2200?

**Chairman Kelsch:** It's about \$800.0 and it is a weighted figure. We had all categories in one general fund thus it has a weighted factor. And it is based on an anticipated number of these students on one line item. I think the weighting factor is .23. I believe it's an increase of about \$200.0 over the last biennium.

**Representative Haas:** I would like to wait on this and see how the new funding program is going to work. **I move a Do Not Pass.**

**Representative Herbel:** I Second

Page 2  
House Education Committee  
Bill/Resolution No **HB 1292**  
Hearing Date: **31 Jan 07**  
**Representative Herbel: | Second**

**A roll call vote was taken: Yes: 12, No: 1, Absent: 0**

**The Do Not Pass prevailed.**

**Chairman Kelsch will carry the bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/10/2007

Bill/Resolution No.: HB 1292

**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	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$12,396,244	\$0	\$12,396,244	\$0
<b>Appropriations</b>	\$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	\$12,396,244	\$0	\$0	\$12,396,244

**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 amends current language in the English Language Learner Program requirements and payments adding that instruction must be English immersion, defining English immersion, and adding requirements that students must be taught in English, tested twice a year, and segregated for instruction.

**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.*

The primary fiscal impact of this bill includes additional teachers and materials for English immersion instruction and testing that must take place outside the regular classroom. A review of the literature on appropriate program models describes the type of Immersion Education that uses English Language Development in a "Pull-Out" model as "very costly as additional ESL resource teachers must be used" (Linquanti, 1999, retrieved from [http://www.wested.org/policy/pubs/fostering/adv\\_conc.htm](http://www.wested.org/policy/pubs/fostering/adv_conc.htm) 1.12.07). The state definition of proficiency in English language, as approved by the United States Department of Education, was used to determine the number of students qualifying as English Language Learners who are not able to do "regular schoolwork."

**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.*

School districts currently use local, state, and federal funds to provide English Language Learner instruction.

**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.*

A conservative estimate, using a high teacher/pupil ratio provides that the state would need 129 additional English Language Learner certified and content teachers with English Language Learner training to teach in separate classrooms at a cost of \$6,461,667. Testing costs include \$140,000.00. Costs for instructional materials required for English Language Learner classrooms is estimated at \$3,685. Transportation is included at an estimate of \$55,270 since English Language Learners are spread through school districts and spread throughout the state. Rural school districts will need to collaborate to provide the necessary classrooms and teachers.

**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.*

Costs would impact school districts with students qualifying as English Language Learners. Currently the Department of Public Instruction - Senate Bill 2013 includes \$650,000 for English Language Learner instructional costs and \$275,000 for English Language Proficiency Assessment. This funding supports school district costs for the instructional and assessment program for English Language Learners. The funding for services and assessment included in SB 2013 are subtracted from the total estimated costs of \$13,321,244 for HB 1292.

<b>Name:</b>	Mari B. Rasmussen	<b>Agency:</b>	Public Instruction
<b>Phone Number:</b>	328-2958	<b>Date Prepared:</b>	01/15/2007

Date: 31 Jan 07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1292

House Education Committee

Check here for Conference Committee

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

Action Taken Do not pass

Motion Made By Haas Seconded By Herbel

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep Hanson	✓	
V Chairman Meier	✓		Rep Hunskor	✓	
Rep Haas	✓		Rep Mueller	✓	
Rep Herbel	✓		Rep Myxter		✓
Rep Johnson	✓		Rep Solberg	✓	
Rep Karls	✓				
Rep Sukat	✓				
Rep Wall	✓				

Total Yes 12 No 1

Absent 0

Floor Assignment Kelsch

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

**REPORT OF STANDING COMMITTEE (410)**  
February 1, 2007 6:29 a.m.

**Module No: HR-22-1723**  
**Carrier: R. Kelsch**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1292: Education Committee (Rep. R. Kelsch, Chairman) recommends DO NOT PASS**  
(12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1292 was placed on the  
Eleventh order on the calendar.

2007 TESTIMONY

HB 1292

**TESTIMONY ON HB 1292**  
**HOUSE EDUCATION COMMITTEE**  
**January 29, 2007**  
**Mari Rasmussen**  
**328-2958**  
**Department of Public Instruction**

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Madam Chairman and members of the committee:

My name is Mari Rasmussen and I am an Assistant Director for the Department of Public Instruction. Thank you for this opportunity to talk to you. I am here to speak on behalf of House Bill 1292 as amended.

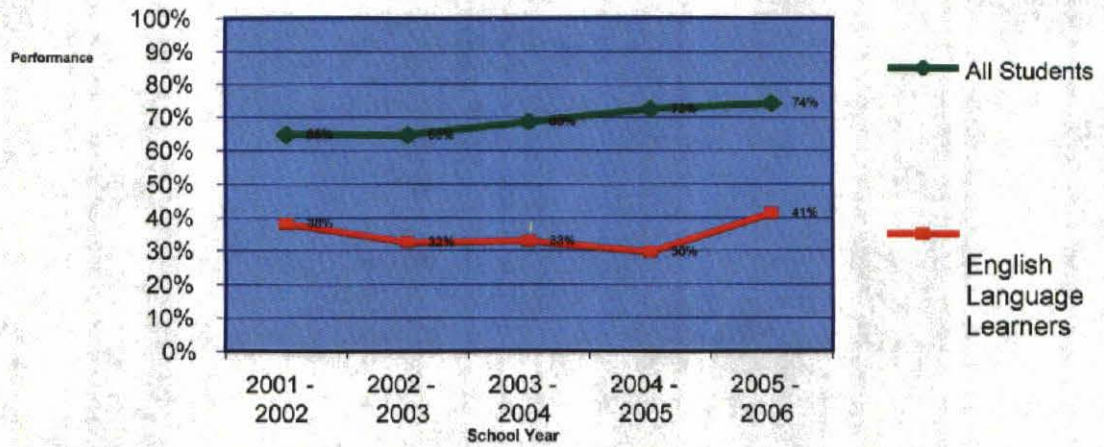
The proposed amendments retain Representative Kasper's original intent of his bill to provide:

- relief and support for regular classroom teachers who have English Language Learners in their classrooms and,
- Ensure that all students become proficient in the English language.

Representative Kasper is appropriate in his concern that regular classroom teachers are challenged when students in their classroom can not do the work because of limited English skills. Teachers are under pressure these days to meet academic achievement goals with their students. English Language Learners, or Limited English Proficient students as they are referred to in the federal legislation are one of the groups of students who are making the least amount of progress in academic achievement goals. The following chart shows academic achievement rates for reading for this group of students for the last several years. English Language Learners consistently have not made adequate yearly progress goals or have met the goal because of statistical confidence levels.

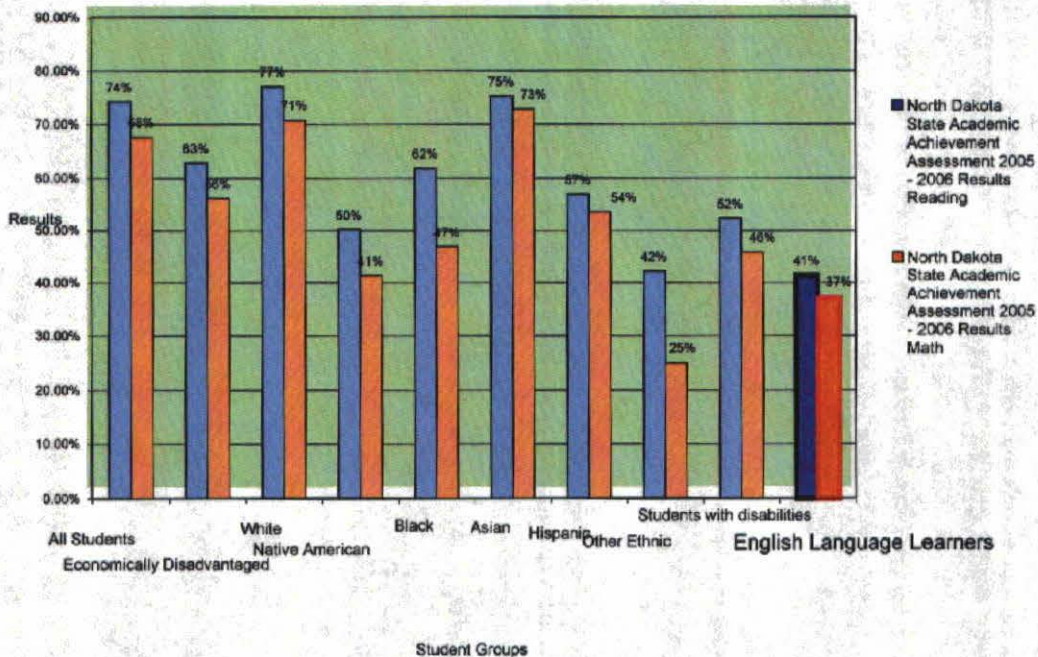


### ND Annual Adequate Yearly Progress in Reading 2002 - 2006



This group of students is one of the lowest groups in the state in terms of academic achievement.

### ND Reading and Math Scores by Sub Group 2005 - 2006



English Language Learners in Fargo Public Schools are struggling to make

progress in the academic areas of the regular classroom as the district Adequate Yearly Progress profile shows. (See enclosures.)

Data on English language proficient goals supports the need for help for this population of students. Federal legislation requires that, along with meeting academic achievement goals, English Language Learners must meet goals for making progress in learning English and attaining English language proficiency. Data for North Dakota and Fargo shows that students are meeting goals for making progress in learning English, but they are not making goals in attaining English and are struggling with academic achievement.

North Dakota Data 2005 – 2006 for English Language Learners					
	Annual Measurable Achievement Goals				
	Goal 1. Academic Achievement Goal		Goal 2. English Language Proficiency Progress Goal	Goal 3. Attainment of English language proficiency Goal	Were all Three Goals Met?
	Was the Goal for Adequate Progress Reading/Language Arts Met?	Was the Goal for Adequate Progress in Math Met?	Was the Goal for Students Making Progress in Learning English Met?	Was the Goal for Students Attaining Full English Language Proficiency Met?	
Fargo Public Schools	Yes	No	Yes	No	No
North Dakota	Yes	Yes	Yes	No	No

This data indicates that English Language Learners are being assisted in learning beginning English skills, but not receiving the support they need to move forward to the full English language proficiency that gives them the tools to achieve in the regular classroom. These students, who have

reached basic, conversational English, but are not yet proficient enough in English to succeed in the mainstream curriculum, are the students who are challenging the regular classroom teachers. They are not making progress towards English proficiency. They are not making progress towards academic achievement.

Representative Kasper wants to help the classroom teachers. He wants to focus on Fargo, which is where the concerns originated. He came up with the idea of a pilot project.

Whereas the position of DPI is to support all students in North Dakota, we can see the merit in a pilot project for the purposes of gathering data and demonstrating success. It is a wonderful opportunity to fully fund one ELL program in the state; provide support for English Language Learners at all levels – particularly those students who are struggling with the language demands of the regular classroom and gather data on what approach works best in helping these kids succeed. North Dakota has tools in place to assess students. We are implementing a new state English language proficiency assessment funded by the 59<sup>th</sup> legislative assembly which is designed to show the progress English Language Learners make towards proficiency in English. We have a strong state academic achievement assessment in place. The Fargo School District has already done extensive work in contracting with national consultants to evaluate their program and they are in the process of developing a plan for improvement.

Let us take that opportunity to gain from the work that Fargo has already done. Let us meet Representative Kasper's interest in helping regular classroom teachers. Let us also help the state by funding a demonstration grant that will serve to provide data on ELL services that

# Annual Adequate Yearly Progress Report

North Dakota Department of Public Instruction

School Year 2005 - 2006

09-001 Fargo 1 (0K-12)

Modified 09/16/06

Page 1 of 1

Instructions on the interpretation of the North Dakota Adequate Yearly Progress Report can be accessed at:  
<http://www.dpi.state.nd.us/testing/account/AYP0506.pdf>

<b>Reading</b>				<b>Math</b>					
2006 State Intermediate Goals		4th Grade -- 73.8%	8th Grade -- 71.1%	11th Grade -- 57.2%	2006 State Intermediate Goals		4th Grade -- 59.3%	8th Grade -- 50.0%	11th Grade -- 43.1%
<b>Listed below are your district's scores</b>					<b>Listed below are your district's scores</b>				
<b>Reading</b>	Achievement Goal	Achievement Result	Participation 95% Rule	<b>Math</b>	Achievement Goal	Achievement Result	Participation 95% Rule		
Composite Score	67.25%	77.08%	98.21%	Composite Score	50.71%	73.68%	98.25%		
<b>Subgroups:</b>				<b>Subgroups:</b>					
Economically disadvantaged	67.25%	64.41%	95.93%	Economically disadvantaged	50.71%	60.56%	96.21%		
<b>Ethnicity:</b>				<b>Ethnicity:</b>					
White	67.25%	78.67%	98.70%	White	50.71%	75.35%	98.70%		
Native American	67.25%	65.31%	89.09%	Native American	50.71%	58.33%	87.27%		
Black	67.25%	48.10%	98.75%	Black	50.71%	40.00%	100.00%		
Asian	67.25%	84.62%	90.70%	Asian	50.71%	82.05%	90.70%		
Hispanic	67.25%	57.14%	97.22%	Hispanic	50.71%	63.89%	100.00%		
Other	67.29%	57.89% <sup>i</sup>	73.08% <sup>i</sup>	Other	50.74%	52.38% <sup>i</sup>	80.77% <sup>i</sup>		
Students with disabilities	67.25%	65.65%	97.03%	Students with disabilities	50.71%	63.70%	96.37%		
Students with limited English proficiency	67.25%	45.30%	95.12%	Students with limited English proficiency	50.71%	37.29% <sup>*</sup>	95.93%		
<b>District Secondary Indicator(s):</b>				Graduation	Goal: 73.09%	Result: 86.30%			
				Attendance	Goal: 93.00%	Result: >=95.0%			
<b>Adequate Yearly Progress Category:</b>				<b>Did not meet Adequate Yearly Progress</b>					

Note: An asterisk (\*) marks the indicator(s) where the district did not meet adequate yearly progress. If an indicator's value is below the achievement goal but no (\*) is marked, then the indicator's value is within statistical reliability. Statistics are not shown for fewer than ten students. An (i) indicates insufficient data to determine adequate yearly progress; the value results from the combining of up to three years' data.

Achievement goals are raised every three years and may vary among categories when insufficient student numbers exist and multiple-year averaging is required. All students are held to the same achievement standards.

# Annual Adequate Yearly Progress Report

North Dakota Department of Public Instruction  
School Year 2005 - 2006

State of North Dakota

Modified 09/16/2006  
Page 1 of 1

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<b>Reading</b>				<b>Math</b>					
2006 State Intermediate Goals		4th Grade -- 73.8%	8th Grade -- 71.1%	11th Grade -- 57.2%	2006 State Intermediate Goals		4th Grade -- 59.3%	8th Grade -- 50.0%	11th Grade -- 43.1%
<b>Listed below are state's scores</b>					<b>Listed below are state's scores</b>				
<b>Reading</b>	Achievement Goal	Achievement Result	Participation 95% Rule	<b>Math</b>	Achievement Goal	Achievement Result	Participation 95% Rule		
Composite Score	67.08%	74.21%	98.98%	Composite Score	50.44%	67.66%	99.02%		
<b>Subgroups:</b>				<b>Subgroups:</b>					
Economically disadvantaged	67.08%	62.83%*	98.27%	Economically disadvantaged	50.44%	56.14%	98.35%		
<b>Ethnicity:</b>				<b>Ethnicity:</b>					
White	67.08%	76.99%	99.37%	White	50.44%	70.72%	99.34%		
Native American	67.08%	50.29%*	97.90%	Native American	50.44%	41.40%*	97.43%		
Black	67.08%	61.84%	93.25%	Black	50.44%	46.58%	98.77%		
Asian	67.08%	75.66%	94.03%	Asian	50.44%	72.82%	97.01%		
Hispanic	67.08%	57.10%*	97.74%	Hispanic	50.44%	53.75%	99.03%		
Other	67.08%	41.67%*	64.86%*	Other	50.44%	33.33%	60.81%*		
Students with disabilities	67.08%	52.50%	98.02%	Students with disabilities	50.44%	45.83%	98.05%		
Students with limited English proficiency	67.08%	41.39%	93.60%	Students with limited English proficiency	50.44%	36.95%	97.16%		
<b>State Secondary Indicator(s):</b>				Graduation	Goal: 73.09%	Result: 86.71%			
				Attendance	Goal: 93.00%	Result: >=95.0%			
<b>Adequate Yearly Progress Category:</b>					<b>Did not meet Adequate Yearly Progress</b>				

Note: An asterisk (\*) marks the indicator(s) where the state did not meet adequate yearly progress. If an indicator's value is below the achievement goal but no (\*) is marked, then the indicator's value is within statistical reliability. Statistics are not shown for fewer than ten students. An (i) indicates insufficient data to determine adequate yearly progress; the value results from the combining of up to three years' data.

Achievement goals are raised every three years and may vary among categories when insufficient student numbers exist and multiple-year averaging is required. All students are held to the same achievement standards.

January 29, 2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1292

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an English language learner demonstration project grant program; to provide an appropriation; and to provide for a legislative council report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. ENGLISH LANGUAGE LEARNER DEMONSTRATION PROJECT GRANTS – REPORT TO LEGISLATIVE COUNCIL.

1. The superintendent of public instruction shall accept applications from school districts for a grant to conduct a demonstration project regarding effective and efficient methods of providing instruction to English language learners.
2. In order to be considered for an English language learner demonstration project grant, a school district must be significantly impacted by English language learners and must have in place a program for the instruction of English language learners that includes:
  - a. Clearly articulated entry and exit criteria; and services at all grade levels, all levels of English language proficiency, and for a variety of language backgrounds;
  - b. The assignment of additional personnel to support regular classroom teachers with whom English language learner are place;
  - c. Limited caseloads for English language learner teachers; and
  - d. Access to professional development opportunities focusing on the instruction of English language learners.
3. The school district receiving an English language learner demonstration project grant must agree to use only research-based methods and materials in the instruction of English language learners and to provide data and evaluations to the superintendent of public instruction at the time and in the manner requested by the superintendent.
4. Before July 1, 2009, the superintendent of public instruction shall compile the

data and evaluations from each school district that received an English language learner demonstration project grant and report any findings and recommendations to an interim committee appointed for that purpose.

Section 2. APPROPRIATION – ENGLISH LANGUAGE LEARNER DEMONSTRATION PROJECT – GRANT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing an English language learner demonstration project grant, for the biennium beginning July 1, 2007, and ending June 30, 2009. Any award under this section is contingent upon the recipient providing an equal amount for the same purpose.”

Renumber accordingly.

**ARTICLE 67-28**

**ENGLISH LANGUAGE LEARNER PROGRAMS**

Chapter  
67-28-01

English Language Learner Programs

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**ENGLISH LANGUAGE LEARNER PROGRAMS**

Section

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**Section 67-28-01-01 Responsibilities of all school districts.**

Every school district shall:

1. Provide a written assurance to the department that it has a policy for providing alternative language services in compliance with N.D.C.C. chapter 15.1-38 English Language Learners Instruction. The assurance must be made in the form and manner and at intervals prescribed by the department.
2. Designate a program representative who serves as a contact for English language learner student services and data. The school district must report the designated program representative's status on the MIS03 form.
3. Develop a plan to identify and assess the language proficiency of students who have a primary language other than English or come from an environment in which a language other than English significantly impacts the student's level of English language proficiency. The plan must incorporate participation in the North Dakota English language proficiency assessment program and the North Dakota state assessment program for academic achievement.

**History:** Effective July 1, 2006.

**General Authority:** NDCC 15.1-38-02, 28-32-02

**Law Implemented:** NDCC 15.1-38-01, 15.1-38-02

**Section 67-28-01-02 Options for compliance.**

A school district may choose one of the following options as a means of complying with the requirements of this chapter:

1. The school district may adopt and implement its own program;



2. The school district may participate in a program through a multi-district association; or
3. The school district may pay tuition and other costs as agreed to by cooperating districts for its English language learners to participate in the program of another school district or multi-district association of school districts.

A school district or multi-district association of school districts may consider providing services through any delivery method not contrary to state law that is consistent with the program model adopted by the school district or multi-district association of school districts and may consider providing services by means of classroom or individual instruction and distance learning options including interactive video and computer instruction.

**History:** Effective July 1, 2006.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 15.1-38-01

#### **Section 67-28-01-03 Assessment of English language learners; classification.**

1. The assessment process shall follow the North Dakota English language proficiency assessment program. The English language proficiency assessment process must be supervised by a teacher of English as a second language or a bilingual education teacher. A school district may use a screening protocol prior to conducting the assessment. Criteria for the screening protocol may include observation, a checklist, writing samples, and other indicators of language proficiency.
2. The assessment process will result in classification of the student by determining whether the student has preliterate – Level I, beginning - Level II, intermediate – Level III, basic – Level IV, or proficient –Level V English language skills.

**History:** Effective July 1, 2006.

**General Authority:** NDCC 15.1-38-02, 28-32-02

**Law Implemented:** NDCC 15.1-38-01, 15.1-38-02, 15.1-38-03

#### **Section 67-28-01-04 Eligibility for English language learner services.**

To be eligible for English language learner services, a student must:

1. Be at least five years of age, but must not have reached the age of twenty-two;
2. Be enrolled in a school district in North Dakota;
3. Have a primary language other than English or come from an environment in which a language other than English significantly impacts the individual's level of English language proficiency; and
4. Have difficulty speaking, reading, writing, and understanding English as shown by assessment results.

**History:** Effective July 1, 2006.

**General Authority:** NDCC 15.1-38-02, 28-32-02

**Law Implemented:** NDCC 15.1-27-12, 15.1-38-01, 15.1-38-02

**Section 67-28-01-05 Individualized language plan; parent communication.**

1. The school shall convene a team of persons to review the language and educational needs of each student whose assessment results show the student is eligible for English language learner services. The team may be known as the "language support team." The team shall include a teacher of English as a second language or a bilingual teacher, and a person with the authority to commit resources necessary to deliver the plan. The team may include other individuals involved with the student's instruction, such as a classroom teacher or paraprofessional. The school shall invite the student's parent or guardian to be a team member. The team shall develop an individualized language plan for the student based on the student's language proficiency and academic achievement and on alternative language services being provided.
2. The individualized language plan must be written and implemented. In developing the written individualized language plan, the language support team shall consider:
  - a. The background of the student and a description of the student's needs;
  - b. Goals and objectives for improving English language proficiency and its relationship to academic achievement;
  - c. Specialized language instruction to be provided to the student, including type of service and amount of service time;
  - d. Related services to be provided to the student, if any;
  - e. Appropriate instructional strategies to be used in the general education classroom; and
  - f. Accommodations, if any, for instruction and assessment.
3. While the student is enrolled in the school district, the student's individualized language plan and classification must be reviewed annually until the student has been reclassified as proficient by the language support team.
4. The school district shall inform the student's parent or guardian how they may be involved in their child's program of English language acquisition, including periodic progress reporting. The school district shall provide information at least annually to the student's parent or guardian on the progress of the student's language proficiency and academic achievement and on alternative language services being provided. The information must be provided, to the extent practicable, in a language the parent or guardian can understand.

**History:** Effective July 1, 2006.

**General Authority:** NDCC 15.1-38-02, 28-32-02

**Law Implemented:** NDCC 15.1-38-01, 15.1-38-02, 15.1-38-03

**Section 67-28-01-06 Requirements of English language learner program.**

An English language learner program must:

1. Provide alternative language instruction that is based on research and effective practice;
2. Provide an alternative language curriculum, including materials and resources, that is based on North Dakota English language proficiency and academic content standards, is consistent with the school district's program model, and is appropriate for the identified student population;
3. Use instructional facilities that are comparable to that provided for non-English language learner students, and may not unreasonably segregate English language learners;
4. Provide alternative language instruction by or under the supervision of a licensed teacher who holds an endorsement from the North Dakota Education Standards and Practices Board in English as a second language or bilingual education or a major in teaching English as a second or other language;
5. Incorporate administrative oversight by a program director with an administrative credential. The school district must report the director's status on the MIS03 form; and
6. Incorporate a systematic evaluation and reporting plan that uses both summative and formative methods of data collection and evaluation and that is consistent with federal requirements on data collection and reporting.

**History:** Effective July 1, 2006.

**General Authority:** NDCC 15.1-38-02, 28-32-02

**Law Implemented:** NDCC 15.1-38-01, 15.1-38-02

**Section 67-28-01-07 Department of public instruction responsibilities; advisory committee.**

1. The department of public instruction administers English language learner programs, including distribution of state funding, monitoring of school programming, coordinating the English language learner program advisory committee, providing consultative services and technical assistance to schools, and updating and evaluating the North Dakota English language proficiency standards and assessment.
2. The superintendent shall appoint an advisory committee to be known as the English language learner program advisory committee, to advise the superintendent and program personnel on matters related to English language learner programs and the North Dakota English language proficiency assessment. The committee shall make recommendations on the development of rules and guidance documents, program standards, student instruction, and the English language proficiency assessment program. Any significant changes to the rules, standards and assessment program shall be brought before the committee for review and recommendation. The

superintendent may consider nominations for committee membership from schools, education organizations, institutions of higher education, community-based organizations, parents, and others. The superintendent may develop protocols for meetings and other aspects of committee functioning.

**History:** Effective July 1, 2006.

**General Authority:** NDCC 15.1-38-02, 28-32-02

**Law Implemented:** NDCC 15.1-38-01, 15.1-38-02

**Section 67-28-01-08 Eligibility for funding; application process.**

1. To be eligible for payment for an English language learner program, a school district must provide a program of instruction for English language learners that meets the requirements of this chapter. The school district must also submit an application in the form and manner prescribed by the department. Applications are due by December 1.
2. School districts applying as a multi-district association of school districts may submit one application. An application submitted by a multi-district association of school districts must include a signature from each member school district. The application must include a plan for management of funding and services. Payments will be made to individual school districts.
3. A year end report must be submitted to the department in the form and manner prescribed by the department. School districts that have applied as a multi-district association of school districts may submit one year end report on behalf of all member districts.
4. A school district may apply for funding for English language learner students that are enrolled as a member of the school district on December 1 or had been enrolled as a member of the school district but left the district before December 1. Students who have been members of more than one school district prior to December 1 shall be considered members of the most recent district for payment purposes. Student assessment information must be entered into the online reporting system on or before December 1 to be eligible for payment. Student assessment must be completed prior to submission of the application for funding and must include the results of an English language proficiency test administered within the preceding twelve months.

**History:** Effective July 1, 2006.

**General Authority:** NDCC 15.1-38-02, 28-32-02

**Law Implemented:** NDCC 15.1-27-12, 15.1-38-01, 15.1-38-02

**15.1-27-12. Per student payments - English language learners.**

1. In addition to any other payments provided for by this chapter, each school district is entitled to receive:
  - a. The amount of money that results from multiplying the per student amount calculated under subsection 5 by 10.0 for each English language learner determined to have preliterate English language skills and a proficiency level of I;
  - b. The amount of money that results from multiplying the per student amount calculated under subsection 5 by 8.0 for each English language learner determined to have beginning English language skills and a proficiency level of II;
  - c. The amount of money that results from multiplying the per student amount calculated under subsection 5 by 4.0 for each English language learner determined to have intermediate English language skills and a proficiency level of III; and
  - d. The per student amount calculated under subsection 5 for each English language learner determined to have basic English language skills and a proficiency level of IV.
2. In order to be eligible for assessment under this section, a student:
  - a. Must be at least five years of age but must not have reached the age of twenty-two;
  - b. Must be enrolled in a school district in this state;
  - c. Must have a primary language other than English or come from an environment in which a language other than English significantly impacts the individual's level of English language proficiency; and
  - d. Must have difficulty speaking, reading, writing, and understanding English, as evidenced by a language proficiency test approved by the superintendent of public instruction and aligned to the state English language proficiency standards.
3. In order to be eligible for the payment provided for in this section, a school district must provide an approved program of instruction for students who have preliterate English language skills, beginning English language skills, intermediate English language skills, or basic English language skills.

4. a. In order to receive the full payment provided for in this section, a school district must assess each eligible student using a proficiency test that is aligned to the state English language proficiency standards and the state language proficiency test.
- b. On or before December first of each year, a school district shall submit to the superintendent of public instruction an application for payment. The application must include:
  - (1) A description of the district's English language learner program;
  - (2) The result of the district's annual student assessment required under subdivision a; and
  - (3) Any other information requested by the superintendent of public instruction.
5. a. Each year of the biennium the superintendent of public instruction shall calculate the total weighted number of students eligible for payment during that year by determining the sum of all English language learner students weighted as follows:
  - (1) Ten times the number of level I students;
  - (2) Eight times the number of level II students;
  - (3) Four times the number of level III students; and
  - (4) The number of level IV students.
- b. The superintendent of public instruction shall determine the per student amount used to calculate payments under this section during the first year of the biennium by dividing the total weighted number of students eligible for payment under this section into forty-nine percent of the total amount appropriated for this section.
- c. The superintendent of public instruction shall determine the per student dollar amount used to calculate payments under this section during the second year of the biennium by dividing the total weighted number of students eligible for payment under this section into fifty-one percent of the total amount appropriated for this section.
6. The superintendent shall distribute the payments no later than May thirtieth of each school year.

**15.1-27-13. Per student payments - Students on active duty.** A school district is entitled to receive payments under this chapter for a student who is absent up to one semester because the student is a member of the North Dakota national guard and is engaged in active duty or training within or outside the state.

**15.1-27-14. Per student payments - Students attending school out of state.** For each student attending school out of state in accordance with section 15.1-29-01, the weighting factors provided in sections 15.1-27-06 and 15.1-27-07 must be increased by twenty percent.

**15.1-27-15. Per student payments - Isolated schools.**

1. If an elementary school has fewer than fifty students and fifteen percent or more of its students would have to travel beyond a fifteen-mile [24.15-kilometer] radius from their residences in order to attend another school, the weighting factor provided

**TESTIMONY ON HB 1292**  
**HOUSE EDUCATION COMMITTEE**  
**January 29, 2007**  
Fargo Public Schools

Madam Chairman and members of the committee:

My name is Vonnie Sanders and I am the English Language Learner Coordinator for Fargo Public Schools. I am here in support of House Bill 1292.

I am delighted that you are considering a bill regarding some kids who are very dear to me. This bill addresses the needs of classroom teachers, English Language learner teachers, and most importantly, our charges -- the ELL kids.

I can only speak from my personal experiences. Fargo Public Schools has over 850 English Language Learners in attendance. Many of these are refugees. Quite honestly, these are the kids that are most likely to be troublesome in the classroom. These kids, mostly from Somalia, Sudan, and Liberia, are suffering from emotional distress caused by the wars they have been through. They have had to stand and laugh and/or dance while they watch their parents murdered, they have eaten dirt for sustenance, they have hidden in the bush, and been lost from their family members. Most have never been to school -- there *are* no schools in a war zone. Some do not even have a written expression of their oral language.

Now they come to us. Yes, they are in classrooms with your children and grandchildren, yes, they can be disruptive, and certainly, they are not working anywhere near grade level -- even if that grade level is first grade!

I can fully understand the frustration of mainstream teachers. (I have been plenty frustrated myself!) The teachers truly are not sure what to do with these kids -- whom they have in their classrooms for the majority of the day. ELL teachers are frustrated, too, because they know

how much more they could be teaching and serving their ELLs if they had the necessary time. These kids are survivors – they have lived through all kinds of unimaginable circumstances. But they get frustrated, too: they come to school eager to learn. And when they don't, they don't blame me, they blame themselves. (They think: I'm too stupid, I'll never catch up.) This bill will begin to help us resolve these frustrations for the good of all. Our mainstream teachers need more skills, strategies, and background information to feel comfortable with ELLs in their classroom.

We need more ELL teachers with smaller caseloads who can then do a better job of mentoring and consulting with the mainstream teachers, as well as spend more class time teaching English and American culture to the ELLs.

This bill also provides for more ELL professionals to be in the *mainstream* classrooms, supporting the children and the teacher.

All of these measures would go a long way toward helping us educate our newest Americans - in a manner that would be less disruptive and more supportive of the mainstream classroom.

You know, these kids are here to stay. And thank goodness our great nation is willing to share its wealth with "the least of these." I always ask myself, when I am particularly frustrated, "Which of these children would I send back? Who would I say does not deserve this opportunity?" Now we must make the choice to help them become educated citizens, or we can produce illiterate drop-outs. That's our choice to make, not theirs.

I thank you for what you have done in the past, and now ask you to take this next step.

Sincerely,

Vonnie Sanders