

2011 HOUSE EDUCATION

HB 1074

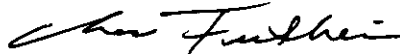
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1074  
01/11/11  
12755

Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open the hearing on HB 1074. Committee members just so you are aware there is a fiscal note for this bill.

**Rep. Dennis Johnson – sponsor:** We have a bill dealing with the reimbursement of boarding care costs. This deals with boarding costs of students living within or out of the district and the services they are being provides. We had to put the language in to decipher students within the district and those not.

**Chairman RaeAnn Kelsch:** Questions?

**Rep. Lyle Hanson – sponsor:** As you know there is the Ann Carlson school in Jamestown and many parents follow their students to Jamestown or move there and it becomes a cost for the Jamestown Public School District. This bill spreads the cost over the state. The number of students moving in can range from 6-12 which can cost 60,000-65,000 dollars for the students at the cost of the Anne Carlson school.

**Chairman RaeAnn Kelsch:** Any other sponsors want to make comments? Ill ask Jerry Coleman to explain the fiscal note.

**Jerry Coleman:** Attachment 1. It is a fiscal note done without much information. The department doesn't have all the details on the costs involved. In section 1, it deals with placements for purposes other than education section in the code. Most noticeable difference here is in the liability the district is held to. It allows resident students that are placed voluntarily by the parents into a state licensed healthcare home facility or program to be treated differently in terms of the reimbursement of their contracts. The second section deals with the boarding issue. Boarding is the residential costs, not the special education costs. The front page tries to outline the differences for us. One difference in the bill is with agency placed. Under agency placed column (attachment) the reimbursement threshold is much lower. The school district would cover roughly the first 9,000 dollars of costs and then any cost above that is reimbursed out of the state from funds appropriated for that purpose. (Referring to attachment) If school placed, the threshold is four times that average. Shifting from local to the state which is what the bill will do will have these kinds of fiscal consequences. We don't know the number of kids involved or the costs of those kids because they are not reported to us. What we did have was information based on one

community's experience. They had four students and that would have increased the reimbursement for contracts to 100,000. For purposes of putting some kind of number in this note I assumed that we would have several other communities that could be related. On section 2 with the boarding care, the costs were 820,000 dollars for one year based on 2008-2009 data. By making all the kids in boarding care eligible it would project to 480,000 a year so another million dollars. That is the basis for the fiscal note to two million.

**Chairman RaeAnn Kelsch:** Part of the issue for some of the new members is that they might not know the formula for which we go by.

**Jerry Coleman:** Let me give a rundown. We have a factor in the main funding formula which is in its second biennial. That factor is currently .07 and there is a recommendation to increase that to .073 based on education improvements recommendations. That goes out to school districts based on their general student count not special education students. That's the allocation that goes out and some is restricted and can be used for whatever they want but it's identified as special education through the funding committee. Its about roughly 40-45 million dollars right now is what that part generates. There is also the kind of money we are talking about right here is the special education contracts line and that is designed to be an insurance pool of money set aside to protect districts from high cost students. There are two types of students that get funded out of that. Eighty percent of our contract line goes for agency placed students. Twenty percent is school placed where they can't provide the services or they can provide the services but they happen to be very high costs.

**Chairman RaeAnn Kelsch:** We've been in the ballpark with that dollar amount but did we end up being short last biennium or did it end up that we had the right amount of money?

**Jerry Coleman:** Actually I think we were long on contracts for what we needed.

**Chairman RaeAnn Kelsch:** Questions regarding fiscal note and what Jerry has discussed? We will now open for support testimony.

**Rhoda Young:** Testimony. Attachment 2.

**Chairman RaeAnn Kelsch:** Questions?

**Rep. Phillip Mueller:** Would reimbursements apply to all those students in your case?

**Rhoda Young:** Yes these would cover the costs of the parentally placed. The difference and the obligation of the average costs of education like it would be if it were a Valley City student vs. the fact that the student would be a resident of Jamestown.

**Rep. Phillip Mueller:** I'm not sure there is an issue here but certainly Jamestown would have some placements that originated in Jamestown, but they would also be covered under this pool of money.

**Rhoda Young:** It depends on whether they are school, agency, or parentally placed. These additional dollars would only involve the parentally placed.

**Rep. Phillip Mueller:** But some of those could be from and originate from Jamestown?

**Rhoda Young:** Correct.

**Rep. David Rust:** Looking at the third page and it says that we have been informed that unless Century Code changes the district will continue to be reimbursed at the level of four times the average cost?

**Rhoda Young:** What I mean is our obligation locally would be four times the average cost.

**Rep. Mark Sanford:** Essentially you are saying the system changed for two years and you are attempting to correct a misinterpretation of the code?

**Rhoda Young:** Yes.

**Rep. Mark Sanford:** What was the misinterpretation?

**Rhoda Young:** At the bottom of page 1 we are actually adding "either within or outside." It was written "outside" the student's district of residence.

**Chairman RaeAnn Kelsch:** So that's where the misinterpretation came from?

**Rhoda Young:** I believe so. Yes.

**Chairman RaeAnn Kelsch:** Questions?

**Rhoda Young:** I see that DPI's fiscal note is an additional two million dollars. You can see on page one, we were told that this could have possible impact on other districts because of certain facilities. Maybe Mr. Coleman could address that later on. We have been told there would not be additional costs and if there were they would be minimal.

**Chairman RaeAnn Kelsch:** When you say additional costs you are saying there would be no need for additional money other than what is currently appropriated? I don't understand that there wouldn't be additional costs. There would be additional costs. The state would have to reimburse those school districts more than what they currently are, so that means you would need additional dollars coming from someplace and less coming from another.

**Rhoda Young:** I am saying I don't think the impact would be on those districts. Obviously there is impact on Jamestown and that would cost additional money. However, at one time we were reimbursed at a higher level.

**Chairman RaeAnn Kelsch:** So what you're saying is that those other school districts would not be much of impact.

**Rhoda Young:** That's what we are told.

**Chairman RaeAnn Kelsch:** Do you have any estimate on what the impact is or what you believe it will be for Jamestown?

**Rhoda Young:** I would say in the range of 100,000.

**Chairman RaeAnn Kelsch:** Questions? Support?

**Connie Hovendick:** I am in favor of this bill and will address section 2. We have two units and have been paid for boarding costs and have received that for thirty years. Until two years ago we received information that the law had been followed wrong and we didn't qualify. They did agree to pay until the end of this biennium. Century Code would need to be changed in order to continue getting this. Students with special education have higher costs and this is one way to make sure they have the services they need. We are asking for continued payment which is around 50-80 thousand for us in Devils Lake.

**Chairman RaeAnn Kelsch:** Questions?

**Rep. John Wall:** You are being paid now and you are threatened that will end?

**Connie Hovendick:** Correct.

**Rep. John Wall:** So the fiscal note of two million dollars, some of that is being spent now?

**Connie Hovendick:** I don't have DPI's charts. It comes out of a separate pool.

**Chairman RaeAnn Kelsch:** Questions? Support?

**Dr. Douglas Johnson – Director, NDCEL:** The concerns as a council is that there are school districts that would be treated differently than the neighboring districts because they cannot be reimbursed those students are a resident within the state. There was a change in the interpretation of the law because they were being reimbursed in the past. Looking at section 1, if you want to limit the cost you might want to be very specific. We see it as students from different districts may be treated differently in terms of costs for the school district.

**Rep. Bob Hunsakor:** We heard other schools could be affected. Do you have any information on that?

**Dr. Douglas Johnson – Director, NDCEL:** I do not have any information on that at this time.

**Chairman RaeAnn Kelsch:** Further Questions? Support? Opposition? Questions for Jerry?

**Rep. Dennis Johnson:** These are being funded now. Explain to me how this works if we need additional dollars?

**Jerry Coleman:** The language in the bill is not restricted to one area. The language changes would open it up for all the boarding care programs in the state. The language on section 1, it would include the ones that are within a district.

**Chairman RaeAnn Kelsch:** An issue is if we pass this we have all these unknowns.

**Rep. Dennis Johnson:** If these facilities are being reimbursed what stopping another from applying reimbursements?

**Jerry Coleman:** I don't believe it was a matter of interpretation. It was a matter of collecting information. When we moved to a computer system then there were these identifying circumstances. We were paying on contracts we shouldn't have been paying.

**Rep. Karen Rohr:** Was there a philosophical change in the placement of these students? But apparently you're saying it's not it's a computer issue.

**Jerry Coleman:** It was a documentation issue.

**Rep. Phillip Mueller:** Would it be fair to say the additional two million was being covered in times gone by except for those students that lived in Devils Lake and they weren't being picked up by the system in terms of reimbursement. So is that the difference? Are we covering some students that originated from Devils Lake or Jamestown?

**Jerry Coleman:** Whether or not we were already paying for these costs already?

**Rep. Phillip Mueller:** More than we weren't paying for those students that originated in those districts. Not the ones that moved in but the ones that were already there.

**Chairman RaeAnn Kelsch:** So you are talking about the students that resided in Jamestown and were in Anne Carlson. So were you paying for those students before?

**Jerry Coleman:** Yes.

**Chairman RaeAnn Kelsch:** So you were paying for them before a change in law was made four years ago?

**Jerry Coleman:** I assume that we were.

**Chairman RaeAnn Kelsch:** Garry has a comment.

**Gary Gronberg:** Let us talk about section 1. If you look on lines 7, 8, and 9 you can see the intent of this section. This section is to determine the local school district of residence of the student. What it says in 4 is who has the liability to pay certain of the costs when determining the district of residence for purposes of education. This section talks about if a third party would place children outside their home for purposes other than education, then this law says who pays for certain of these bills. Education always remains the responsibility of the district of the resident of the student. So this section would say what school is going to pay the school costs. Section four is saying the other costs, beyond

education, are a voluntary placement on the part of the parent. In the case of Jamestown, the parent places the child in the school. In this case they are saying the student is being placed for other than education purposes so what is the liability? Another portion is room and board. Second part is when they reside in a district, why should they have to reside in the facility. Does the state assume responsibility? District? Parent?

**Rep. Karen Rohr:** I am hearing that there is a philosophical change in how we care for these individuals. Do you anticipate the fees for these kinds of things to increase in the next biennium?

**Gary Gronberg:** We've had more voluntary placement than we've had in the past. The change is from third party players.

**Rep. Lyle Hanson:** At one time when we still had a school in Grafton, the state paid millage so the parents could go visit those kids. Is that in existence?

**Gary Gronberg:** To be honest I don't know.

**Rep. Lyle Hanson:** I have a question for Jerry. Say a student is part-time in an Ann Carlson school. Is the state aid pro-rated or does that student get full state aid?

**Jerry Coleman:** If students are the responsibility of a public school district it would generate a foundation aid payment.

**Rep. Brenda Heller:** Question for Gary. If parents moved into town because they chose to place their child in that institution in the town, did you refer to sometimes that child goes back to the house at night and stays at their parent's residence or do they stay at the facility?

**Gary Gronberg:** It depends on the circumstance. Originally the law was to say if the student was residing in the community, there is an expectation that the student would go home every night.

**Rep. Brenda Heller:** Now with the change, the ones staying would be the only ones reimbursed?

**Gary Gronberg:** Correct. The change would be those that stay at the facility.

**Chairman RaeAnn Kelsch:** Questions?

**Rep. John Wall:** The non-educational placement we discussed there was a growing number like at the Anne Carlson center, who's the third party payer here?

**Gary Gronberg:** Typically it is human services. Parents would have a custodian, or someone else involved with that child, and they are the third party payer then.

**Chairman RaeAnn Kelsch:** Further questions? I don't think any opposition. We will close the hearing on HB 1074.

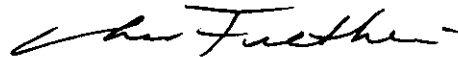
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1074  
01/11/11  
12772

Conference Committee

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## COMMITTEE WORK MINUTES:

**Chairman RaeAnn Kelsch:** We will open committee work on HB 1074 that we heard this morning on special education. Since I've been asked by a number of legislature if this was an issue discussed during the commission on education improvement; it was brought up a couple times but not really discussed. I'm not exactly sure what that means. Perhaps when it came up it wasn't felt as important of an issue. As we saw this morning it may be a more complicated issue than we get our arms around quite yet. I thought we would discuss some ideas on this bill. We may need to appoint a subcommittee to this bill to make sure we figure out the unknowns. I think Jerry Coleman put a fiscal note on something that might or might not happen. He was trying to figure out where this all shook out. Do we need to put some parameters on the bill? What direction do you want to head with this?

**Rep. David Rust:** Sometimes I have a problem with statements like "the student is voluntarily place." I think that it lends itself to some situations that make me a little nervous. This bill really addresses "within" a district so the voluntary placement isn't really up for discussion.

**Rep. Dennis Johnson:** The problem is between Devils Lake and Jamestown. I know they don't pass legislation so specifically designate two communities that this bill is for. I would be disappointed if this bill doesn't get passed and we lose the service for lack of funding.

**Chairman RaeAnn Kelsch:** I knew you'd be very disappointed that's why we are having the conversation to make sure we have the language correct and maybe we do have to specify only Devils Lake and Jamestown.

**Rep. Lyle Hanson:** Most of those kids there are there full time. They need care 24/7 even though those parents might be there. They are put there because parents can't take care of them 24 hours/day.

**Rep. Phillip Mueller:** How is that determination made? What is involved in parent placed? I'm interested in knowing what that is.

**Chairman RaeAnn Kelsch:** I don't know if I can answer that. I know in some circumstances services might not be to the parents liking. I look at it somewhat as if I don't care for the district my kid is attending, I can put them in private. So if a parent chooses to



send their child to, for example, the Ann Carlson school, they can choose to do that. I don't know why they would do that, but it maybe because child isn't getting the care they want.

**Rhoda Young:** I would say in the majority of cases with Anne Carlson, it's a situation where the needs of kids are so significant and involve medical issues and self care issues. It is beyond the possibility of parent keeping the child in their home. I can't say that it has never happened that parents aren't maybe satisfied with public school, but most is because the needs of the children. Most children are involved with developmental disability services. The case manager for this is very involved with family and sees this happening and DD then supports that placement.

**Rep. Mark Sanford:** Do you know how many students will receive this service? What percentage of those students are local?

**Rhoda Young:** Currently we have 7 residing at the center. But approximately 8-10 are from other districts that reside at Anne Carlson but come to public for part of day.

**Chairman RaeAnn Kelsch:** What is the total number of students?

**Rhoda Young:** I believe it's 51.

**Chairman RaeAnn Kelsch:** How many are North Dakota children?

**Rhoda Young:** I'm not sure.

**Vice Chair Lisa Meier:** What is your age limit for accepting?

**Rhoda Young:** 21

**Vice Chair Lisa Meier:** What generally happens to those individuals after they are done with the program?

**Rhoda Young:** Some go back to their communities, move into group home facilities, some work on a part-time basis, it all depends.

**Rep. Phillip Mueller:** It was brought up by Rep. Dennis Johnson that this program be targeted a little bit more. Any thoughts on that?

**Rhoda Young:** I see it affecting these two districts primarily. Based on discussion Connie and I have had with other directors, there hasn't been concern over the affect on other students. That's not to say someday there may not be and I'm sure that's what DPI is trying to indicate. On my part, I made an effort getting numbers and situations and fiscal amounts from my peers and they didn't come up with any.

**Rep. Mark Sanford:** So there is 51 students? All are age 21?

**Rhoda Young:** They are all up to age 21?

**Rep. Mark Sanford:** So the local impact is 7 out of 51?

**Rhoda Young:** The 51 are from any district in ND or any other state. But 7 of those are our students.

**Rep. Mark Sanford:** They are all receiving state support for their students to be there?

**Rhoda Young:** Yes

**Chairman RaeAnn Kelsch:** Are those from out of state receiving aid?

**Rhoda Young:** From the state that is sending them.

**Chairman RaeAnn Kelsch:** Doug, since each of our commission meetings was public record, and you were the one that brought this up, what are your thoughts?

**Dr. Douglas Johnson – Director, NDCEL:** I brought it up as part of the formula committee discussions. We had a fairly extensive discussion about it. We decided not to tackle several issues because we weren't sure how it would turn out with funding issues. As you heard most districts didn't see that but in time we might so that's why you saw the fiscal note. At that point in time we thought we'd bring it back to the commission but it never got put back in.

**Chairman RaeAnn Kelsch:** Any recommendations?

**Dr. Douglas Johnson – Director, NDCEL:** If you are going to do something with this, I think it creates a hardship for Jamestown and Devils Lake so may need specific language in this to handle it at this time. That said, that could create some spinoff problems from other schools.

**Chairman RaeAnn Kelsch:** Is it worth continuing the discussion on this issue? When you have some senior members that it is important to, I'd like to see if something can work. If committee is interested in seeing if we can work something out I'd assign a subcommittee to resolve some of the issues and that reduces that note.

**Rep. Karen Rohr:** What would happen to the care of these children if we did nothing?

**Chairman RaeAnn Kelsch:** The school district will continue to carry the burden. It's not to say that they won't find a way to manage and fund it. I'm thinking on their behalf; a matter of fairness.

**Rep. Brenda Heller:** Are the only two schools in North Dakota that provide boarding the Anne Carlson place and the Devils Lake place?

**Chairman RaeAnn Kelsch:** No. You can stay at others as well. You have to look at this as two different issues.

**Rep. David Rust:** Looking at Home on the Range and Dakota Boys Ranch. How do those have 24 hour placement? What happens there?

**Dr. Douglas Johnson – Director, NDCEL:** Many at Dakota Boys Ranch are placed out of juvenile placement process. It would only be where child placed out of drug and alcohol situation at a parent's request that we would be involved with that.

**Rep. David Rust:** As I look at it, I do feel we have a fairness issue here. It looks like we have a district a few miles from Jamestown (inaudible) I think we should try to work something out.

**Rep. Phillip Mueller:** Is there any possibility of going back to the district of which that disabled student comes from and transferring that burden back to the original district?

**Dr. Douglas Johnson – Director, NDCEL:** I think you have to take a good look at subsection 4. You'd have to change some language. It would be a considerable undertaking. It could present a problem.

**Rep. Mark Sanford:** To me when I look at this I go back with what the committee started with. The equity means you are trying to get as close to a level playing field. At this case we are looking at parentally placed. In every other district when parentally placed they get support. Now I recognize the potential is unknown from the other circumstances that might come about. There are 51 students so there must be 40 some that are being supported by the district.

**Rep. Bob Hunskor:** We have an issue that is very important to two communities. I think we need more info to arrive at a decision.

**Chairman RaeAnn Kelsch:** I'm going to appoint a subcommittee. I'm going to put Rep. Dennis Johnson, Rep. John Wall, and Rep. Lyle Hanson on a subcommittee and have them work through this and have them come up with a way to make sense etc.

**Rep. John Wall:** I can't figure out why every special education district would be affected by this. The other districts aren't here in support of it which tells me they are not affected and we are dealing with just two districts. Is there a way to check with other special education districts and see if they have students that qualify? I still don't understand the 2 million.

**Dr. Douglas Johnson – Director, NDCEL:** I do think that is possible. I can get that info so you have an idea of it. I think the reason it focuses on Jamestown and Devils Lake is because those are probably the most expense to run in state.

**Chairman RaeAnn Kelsch:** I'm guessing Jerry may have went long to be on the safe side. The department has been criticized for under guessing their numbers. I think sometimes the department tends to error on the long side rather than the short side. As we look at amending the bill and a new fiscal note would probably be more palatable and reasonable. Do keep Jerry in the loop as you look at this so we can have a truer fiscal note.

**Dr. Douglas Johnson – Director, NDCEL:** I do know when we met in June on this, we sat down and started looking at what that impact would be. I think the estimate is just that, an estimate. We'd have to rely on more info.

**Rep. Corey Mock:** Can you remind me why this doesn't apply to the school for deaf?

**Chairman RaeAnn Kelsch:** Because it's a state institution. Committee members that is where we are at. We will adjourn the meeting on HB 1074.

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HB 1074  
02/07/11  
14089

Conference Committee

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## MINUTES:

**Chairman RaeAnn Kelsch:** We will open the hearing on HB 1074.

**Rep. Dennis Johnson:** HB 1074 was dealing with the alternative schools in Devils Lake and Anne Carlsen Center. It was so if the parents lived in the district would be reimbursed for the boarding. What we wanted to do here was continue with the language in the bill that says that they are in district. We put the date in there to continue on to 2001. Devils Lake has never lost the funding but they were going to lose their funding so their funding so there would be no fiscal note. Jamestown has lost their funding in the previous year. We didn't want to lose this bill.

**Chairman RaeAnn Kelsch:** Does this mean then that there is no fiscal effect? There is one fiscal note that says there would be expenditure of two million dollars, but then it was said that no state agency has premiere responsibility for compiling and maintaining information necessary for proper preparation for a fiscal not. Which one came first?

**Rep. Dennis Johnson:** I think we did want to sunset on this piece. The peace of mind for everyone involved is to have a sunset and come back next session and see if there is all these new students.

**Rep. Mike Schatz:** How did they pay for them in the past and why are we putting two million dollars on here?

**Rep. Dennis Johnson:** We were told that the new computer program at DPI has kicked them out. In the past they were in existence as far as being reimbursed.

**Rep. Mike Schatz:** So then there really wouldn't be any fiscal impact.

**Rep. Dennis Johnson:** The fiscal note in the past has been about 180 thousand. The department came down with the language and I can't see where it would because all the special education units said they had not students that would qualify. That is why we want the sunset.

**Rep. Lyle Hanson:** The 2 million dollars was just a guess. Jerry didn't know exactly. I think most of the Devils Lake schools get forty thousand dollars a year.

**Rep. Dennis Johnson:** I believe it is eighty-eight thousand a biennium.

**Rep. Lyle Hanson:** And the same thing with the Anne Carlsen school. The problem is the state used to pay but then all of a sudden they decided they weren't going to pay anymore.

**Rep. Bob Hunsakor:** Help me find line thirty on page four.

**Chairman RaeAnn Kelsch:** The amendment doesn't seem to line up.

**Rep. Dennis Johnson:** The other thing that is part of this amendment should have the sunset clause on there also.

**Chairman RaeAnn Kelsch:** When would you want it to sunset? Based on the school year or you want it to sunset December 31<sup>st</sup>?

**Rep. Dennis Johnson:** I would want the sunset to go so there wouldn't be any interruption of funding when we come back next session.

**Chairman RaeAnn Kelsch:** It would be December 31<sup>st</sup> of 2012?

**Rep. Dennis Johnson:** It would have to be later than that because we won't back in session until 2013.

**Chairman RaeAnn Kelsch:** We come back in 2013 so then you could have it be July 1st or December 31<sup>st</sup> of 2013 so you can address it at that time.

**Rep. Dennis Johnson:** With the program boarding if we don't have the same funds as we do request, we do have all the students.

**Chairman RaeAnn Kelsch:** You would ask for a section four that would say this section is no longer in effect after June 30, 2013? If you want to move the amendments adding in that language. The amendments then would be page two after line twenty-three insert section three and the effective date and then it would include a section four that would also be an effective date that the act would no longer be effective after June 30, 2013.

**Rep. Mark Sanford:** The amendment is for one district or all districts?

**Rep. Dennis Johnson:** Right now there are two districts participating in this program. The past legislation, it's like it has always been. So we are opening it up with views of the department. So that is why we want to sunset it.

**Rep. Mark Sanford:** So would the Jamestown school district's circumstance be taken care of with the amendment or would they be funding these themselves for the next two years? Would both be funded under the bill and amendment?

**Rep. Dennis Johnson:** With the July 1, 2011 effective date, they will be funded from July 1 moving forward. Devils Lake has never been interrupted with their funding. Jamestown did

lose funding so they will be short one year of funding. If they so need funding they can come in next session and request that.

**Rep. Phillip Mueller:** I think if I understand this correctly that the department did do all these things, they funded these students that were in district going into the Anne Carlsen Center and for some reason they decided they didn't want to do that anymore. Correct me if I'm wrong but I think this bill fixes that.

**Chairman RaeAnn Kelsch:** This is one of those cases where normally they come in and tell us we have to pass some sort of change in law in order to accommodate what they have been doing by rule and this one is their interpretation of a rule and saying we are the ones that implemented these rules but we don't want to abide by them any longer so it's a rule by selection

**Rep. Mike Schatz:** Regarding the fiscal note, now you get paid forty thousand to Devils Lake and eighty thousand per year?

**Rep. Lyle Hanson:** I believe per year.

**Rep. Dennis Johnson:** I believe per biennium it is right at about 200 thousand.

**Chairman RaeAnn Kelsch:** Per school or both?

**Rep. Dennis Johnson:** For both schools.

**Rep. Mike Schatz:** So we have 120 into this. Our fiscal note shows two million and my questions is if we pass this the way it is and the people on the floor look at the fiscal note and ask why two million dollars are we going to say no it is really only 120 thousand. I'm not sure how you justify that in this bill.

**Chairman RaeAnn Kelsch:** This is an issue where Jerry comes in and doesn't have a clue. He is just guessing at what it could be. That is one of the issues we have with fiscal notes. Regardless this will have to go down to appropriations. However it would probably would be picked within the current DPI budget.

**Rep. David Rust:** Devils Lake this year will get the money? Jamestown will not?

**Rep. Dennis Johnson:** That is correct.

**Rep. David Rust:** When you had a subcommittee that met on this, did you at all discuss changing the 2011 to 2010 or is that not possible?

**Rep. Dennis Johnson:** We had the discussion. In fear of losing the bill we decided to do what we did.

**Chairman RaeAnn Kelsch:** Retroactive bills sometimes don't work very well.

**Rep. David Rust:** To me it seemed more of a fairness issue.

**Rep. Karen Rohr:** You said that DPI would pick up that cost?

**Chairman RaeAnn Kelsch:** Not DPI but the funding bill that funds K-12 education. It would probably be absorbed within that. That is who was supposed to be paying in the first place.

**Rep. Karen Rohr:** Then the fiscal note should be a zero.

**Chairman RaeAnn Kelsch:** No it's not necessarily. Regardless of where the money comes from, we know potentially there will be some impact. What we are doing here is saying school districts were never responsible for this in the past and then all of sudden you have been responsible for it so it is a shift from local to state dollars. It is not necessarily that there is an additional appropriation for it, but it will be a cost from someplace else. It is usually something absorbed from the funding formula

**Rep. Karen Rohr:** So then Jamestown should know by their historical financial data how much they would require for that next year. That should give you the fiscal note.

**Chairman RaeAnn Kelsch:** Remember that the way the bill is written this could apply to other school districts and Jerry said this could possibly be what it could end up costing. The issue is there are a lot of unknowns in these numbers.

**Rep. Lyle Hanson:** Doug Johnson did a survey of all special education units and no one would apply any extra costs.

**Chairman RaeAnn Kelsch:** When you had your subcommittee, who else did you meet with?

**Rep. Dennis Johnson:** That is why I took a little time because Doug Johnson visited with us. We had correspondence with Doug Johnson and two special education directors that were involved.

**Rep. Brenda Heller:** If we pass this, a year from now if a special education unit decided to, it would change everything. So why can't we make this specific to Jamestown and Devils Lake so it's not just an open stream?

**Chairman RaeAnn Kelsch:** We can't necessarily discriminate against the different special education units. It would set a precedent on something that we normally don't do. I think the situations are a little more unique with Anne Carlsen Center and Harmony House. I think those are really the only two that it has applied to in the past. We

**Rep. Dennis Johnson:** I move the amendment.

**Vice Chair Lisa Meier:** Second.

**Rep. Mark Sanford:** I'm not recalling specifically why DPI changed policy. I'm wondering about them being able to absorb. If we were to deal with this and pass it out, it would give them legislative intent that maybe they would rethink what they are doing this year. There



probably would be some extra dollars in that foundation aid. I agree with Rep. David Rust that there is a fairness issue but I'm seeing the potential of DPI to go back and rethink this.

**Chairman RaeAnn Kelsch:** We have the amendment on the table. We will try a voice vote.

*Voice vote:* Motion carries.

**Rep. Mark Sanford:** Motion to do pass as amended and rerefer to appropriations.

**Chairman RaeAnn Kelsch:** When we look at our funding formula there is always a little wiggle room in there because we want to make sure we can fund education the first year and then fund it the second year of the biennium. There always is that little cushion to absorb some of these costs that may not have been factored correctly.

**Rep. Dennis Johnson:** Second.

**Chairman RaeAnn Kelsch:** We have a do pass as amended on HB 1074 and rerefer to appropriations. We will take the roll. We will close on HB 1074.

**13 YEAS 2 NAYS 0 ABSENT  
and Rerefer to Appropriations  
Chairman RaeAnn Kelsch**

**DO PASS as Amended  
CARRIER:**

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/09/2011

Amendment to: HB 1074

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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	\$1,000,000	\$0	\$0	\$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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$1,000,000	\$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).*

This bill expands eligibility for state reimbursement for education and related costs for students voluntarily placed in residential child care homes or facilities and in boarding care programs within their school district of residence.

**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 bill amends two sections of NDCC that have fiscal impact.

Section 1 would allow a school district to be reimbursed from state funds the excess education and related costs for students voluntarily placed in licensed child care facilities located within their resident school district. Currently a school district is reimbursed for all costs exceeding 4.0 times the state average cost (est. \$36,000) for these placements. This change would allow reimbursement for all costs exceeding the state average cost (est. \$9,000).

Section 2 would allow a school district to be reimbursed from state funds 80% of the cost of boarding care for students placed in programs located within the student's resident school district. Currently the school district is responsible for 100% of the boarding care costs of these placements.

The state does not have information available on the numbers or costs of the individual students that would become eligible with the proposed changes. Based on one facility we do have information on, four resident students would generate an additional reimbursement of \$104,000 (2009-10 data) annually. We would expect additional student contracts but have no basis to project how many. If five communities had a similar experience, reimbursements would increase to \$500,000 annually or \$1,000,000 for the biennium.

The state costs for boarding care under section 2 have averaged \$250,000 per year, which already includes costs for residential services provided to students within their resident district. If no new placements occur elsewhere, no additional cost would be incurred.

**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.*

Based on the analysis above, the proposed changes will result in a shift of \$1,000,000 from local sources to state sources.

**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.*

NOTE: The funding source for excess cost reimbursements for special education is contained in the Special Education Contracts line in the Department of Public Instruction's appropriation bill. The recommended appropriation of \$16,000,000 does not include the costs projected above.

Past education funding bills have had language to cover shortfalls in Special Education Contract funding by authorizing transfers from the Bank of North Dakota. SB 2150 (1st Engr), as amended, continues that authorization.

<b>Name:</b>	Jerry Coleman	<b>Agency:</b>	DPI
<b>Phone Number:</b>	328-4051	<b>Date Prepared:</b>	02/14/2011

# FISCAL NOTE

Requested by Legislative Council  
01/06/2011

Bill/Resolution No.: HB 1074

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$2,000,000	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$2,000,000	\$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).*

This bill expands eligibility for state reimbursement for education and related costs for students voluntarily placed in residential child care homes or facilities and in boarding care programs within their school district of residence.

**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 bill amends two sections of NDCC that have fiscal impact.

Section 1 would allow a school district to be reimbursed from state funds the excess education and related costs for students voluntarily placed in licensed child care facilities located within their resident school district. Currently a school district is reimbursed for all costs exceeding 4.0 times the state average cost (est. \$36,000) for these placements. This change would allow reimbursement for all costs exceeding the state average cost (est. \$9,000).

Section 2 would allow a school district to be reimbursed from state funds 80% of the cost of boarding care for students placed in programs located within the student's resident school district. Currently the school district is responsible for 100% of the boarding care costs of these placements.

The state does not have information available on the numbers or costs of the individual students that would become eligible with the proposed changes. Based on one facility we do have information on, four resident students would generate an additional reimbursement of \$104,000 (2009-10 data) annually. We would expect additional student contracts but have no basis to project how many. If five communities had a similar experience, reimbursements would increase to \$500,000 annually or \$1,000,000 for the biennium.

In 2008-09 districts reported \$820,000 in boarding care costs. The state reimbursed boarding care costs in the amount of \$220,000. This leaves \$600,000 that was funded locally. If the state funds 80% of this amount, the annual amount would require an additional \$480,000. For the biennium the total would be close to \$1 million in additional boarding care costs.

**NOTE:** The funding source for excess cost reimbursements for special education is contained in the Special Education Contracts line in the Department of Public Instruction's appropriation bill. The recommended appropriation of \$16,000,000 does not include the costs projected above.

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.*

Based on the analysis above, the proposed changes will result in a shift of \$2,000,000 from local sources to state sources.

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.*

There is no appropriation identified to fund the proposed changes in this bill.

<b>Name:</b>	Jerry Coleman	<b>Agency:</b>	Public Instruction
<b>Phone Number:</b>	328-4051	<b>Date Prepared:</b>	01/10/2011

## FISCAL NOTE STATEMENT

House Bill or Resolution No. 1074

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Becky Keller  
Senior Fiscal Analyst

February 7, 2011

V12  
2/7/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1074

Page 1, line 3, after "costs" insert "; to provide an effective date; to provide an expiration date; and to declare an emergency"

Page 2, after line 23, insert:

**"SECTION 3. EFFECTIVE DATE.** This Act becomes effective on July 1, 2011.

**SECTION 4. EXPIRATION DATE.** This Act is effective through June 30, 2013, and after that date is ineffective.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 02-07-11  
Roll Call Vote #: VOICE VOTE

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1074

House EDUCATION Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt  
Amendment

Rerefer to Appropriations  Reconsider

Motion Made By REP. D. JOHNSON Seconded By VICE CHAIR MEIER

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch			Rep. Hanson		
Vice Chairman Meier			Rep. Hunskor		
Rep. Heilman			Rep. Mock		
Rep. Heller			Rep. Mueller		
Rep. Johnson					
Rep. Karls					
Rep. Rohr					
Rep. Rust					
Rep. Sanford					
Rep. Schatz					
Rep. Wall					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**VOICE VOTE ON AMENDMENT**

**MOTION CARRIES**



Date: 02-07-11  
Roll Call Vote #: \_\_\_\_\_

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1074

House EDUCATION Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt  
Amendment

Rerefer to Appropriations  Reconsider

Motion Made By REP. SANFORD Seconded By REP. D. JOHNSON

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunsakor	X	
Rep. Hellman	X		Rep. Mock	X	
Rep. Heller		X	Rep. Mueller	X	
Rep. Johnson	X				
Rep. Karls	X				
Rep. Rohr		X			
Rep. Rust	X				
Rep. Sanford	X				
Rep. Schatz	X				
Rep. Wall	X				

Total (Yes) 13 No 2

Absent 0

Floor Assignment CHAIRMAN KELSCH

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

**REPORT OF STANDING COMMITTEE**

**HB 1074:** Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1074 was placed on the Sixth order on the calendar.

Page 1, line 3, after "costs" insert "; to provide an effective date; to provide an expiration date; and to declare an emergency"

Page 2, after line 23, insert:

**"SECTION 3. EFFECTIVE DATE.** This Act becomes effective on July 1, 2011.

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**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**2011 HOUSE APPROPRIATIONS**

**HB 1074**

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee  
Roughrider Room, State Capitol

HB 1074  
2/16/11  
14636, 14644

Conference Committee

Committee Clerk Signature *Meredith Tracholt*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to school district reimbursement for boarding care costs; to provide an effective date; to provide an expiration date; and to declare an emergency.

## Minutes:

You may make reference to "attached testimony."

**Chairman Delzer:** Opened discussion on HB 1074. The title was read.

**Representative RaeAnn Kelsch, District 34:** I have to state up front, the \$2 million Fiscal Note is at best a guess. The way this was set up prior to 2009, was that school districts were being reimbursed for these boarding costs. But it sets up somewhat of an anomaly, wherein we've got these two schools, one in Devils Lake and one in Jamestown, and both of these centers educate students, whether they are placed there by a parent or a placement. When a student from any other district in ND is parentally placed, we'll use Jamestown and the Anne Carlsen school as an example, since that's really what we're talking about here, the school district in which the parents reside is obligated to the average cost of education for that student. The remainder of the cost is covered by the state. This is accounted for in the funding formula and in DPI's budget. If, however, a student from Jamestown is placed voluntarily into the Anne Carlsen Center, the fiscal obligation to the district jumps from the average cost of education to four times the average cost of education. What is happening here is that some of these parents are saying, we need to place our student, but then they're moving into Jamestown. Jamestown now is picking up the remainder of those placement costs. The \$2 million was the best guestimate. There are probably just a handful of students that would potentially qualify for this, potentially about four students. This was always covered in the funding formula from the past, and that's why it's before you.

**Chairman Delzer:** Are you expecting this probably would be taken care of in the funding formula? We almost always build a little bit of room into it.

**Representative Kelsch:** That's really what I am thinking. The Fiscal Note is just there as a potential. We always have those safeguards built in, and because it was being done previously, I think that the money is there and it can be done within the current budget without causing any issues.

**Chairman Delzer:** Questions by the committee?

**Representative Skarphol:** Are there similar situations in the School for the Deaf in Devils Lake?

**Representative Kelsch:** Yes. That's the school district that was impacted more so, actually.

**Representative Skarphol:** Representative Monson and I were talking about the School for the Deaf, and am I not correct that there are 27 students there, and we're spending \$9.3 million to take care of them?

**Representative Monson:** That was what they had last time, 27 students. I'm not sure what they have now.

**Chairman Delzer:** Does the School for the Deaf work with any nonresident students?

**Representative Monson:** I do not believe so.

**Representative Kelsch:** Where most of this money would come from is the special education contract portion, in the excess cost reimbursements. The \$16 million that is in the special education contracts line does not include these numbers, but we believe it could be absorbed easily in there because it was in the past. But this is not for those 27 kids, this would only affect a handful of kids.

**Chairman Delzer:** When did you say this change was made?

**Representative Kelsch:** Last session.

**Chairman Delzer:** Purposely?

**Representative Kelsch:** No, it is an interpretation by the Department of Public Instruction, it's not necessarily in the law.

**Representative Monson:** This only pertains to those students whose parents are residents within that district. So most of those kids at Devils Lake, many of them would be from all around the state, and the same at Anne Carlsen school.

**Representative Kelsch:** Correct.

**Chairman Delzer:** Is there ever a case where it is court ordered?

**Representative Kelsch:** Yes, that is in a different section of code, so that doesn't apply in this bill. My understanding is, the district sending would be the same as this, the district sending would pay the cost.

**Chairman Delzer:** Further questions by the committee?

Second recording 14644

**Chairman Delzer:** I don't think we need to add any language about finding the money within the DPI budget since we will have that in the second half ourselves. Committee, what are your wishes? Any discussion on the bill?

**Representative Kroeber:** I move Do Pass.

**Representative Kaldor:** Second.

**Chairman Delzer:** Discussion by the committee. Seeing none, we'll call the roll for a Do Pass. Motion carries 20-0-1. Representative Kaldor will be the carrier.

Date: 2/16  
 Roll Call Vote #: 1

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1074**

House Appropriations Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Kroeber Seconded By Rep. Kaldor

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson	X	
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert					
Representative Skarphol	X				
Representative Thoreson	X		Representative Glassheim	X	
Representative Bellew	X		Representative Kaldor	X	
Representative Brandenburg	X		Representative Kroeber	X	
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch	X		Representative Williams	X	
Representative Hawken	X				
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson	X				
Representative Monson	X				

Total (Yes) 20 No 0

Absent 1

Floor Assignment Rep. Kaldor

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

**REPORT OF STANDING COMMITTEE**

**HB 1074:** Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1074 was placed on the Sixth order on the calendar.

Page 1, line 3, after "costs" insert "; to provide an effective date; to provide an expiration date; and to declare an emergency"

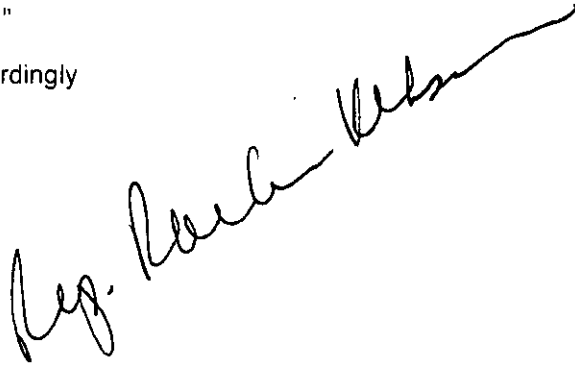
Page 2, after line 23, insert:

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**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure."

Re-number accordingly

A handwritten signature in black ink, appearing to read "Rep. R. Kelsch", is written diagonally across the page.



**REPORT OF STANDING COMMITTEE**

**HB 1074, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)**  
recommends **DO PASS** (20 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed HB 1074 was placed on the Eleventh order on the calendar.

2011 SENATE EDUCATION

HB 1074

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee  
Missouri River Room, State Capitol

HB 1074  
March 2, 2011  
14845

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to school district reimbursement for boarding care costs; to provide an effective date; to provide an expiration date; and to declare an emergency.

## Minutes:

See "attached testimony."

**Chairman Freborg** opened the hearing on HB 1074; fiscal note attached.

**Representative Johnson, District 15** introduced the bill; purpose of the bill is to address a situation regarding reimbursement for (more specifically) Devils Lake (Harmony House and New Outlooks) and Jamestown (Anne Carlson Center--ACC) for boarding costs for students whose parents move into the district. The school districts used to get reimbursed but that was changed a few years ago and they no longer do. The fiscal note in the house was larger than needed; Doug Johnson did a survey and no other special ed unit from across the state felt they would need this type of program. The fiscal note was reduced from \$2 million to \$1 million, as it would be only Jamestown and Devils Lake affected.

**Representative Hanson, District 12:** co-sponsor of the bill; often parents follow their special needs child to live in Devils Lake or Jamestown. Can't really care for the needs of the child at home; need specialized care. Expenses quite high.

**Rhoda Young, Director of Special Education, James River Special Education Cooperative** testified in favor of the bill (#1 Testimony) (#2 letters from other Special Ed units in the state)

**Senator Flakoll:** What percent of children enrolled in the Jamestown School District are special needs district? **Rhoda Young:** Approximately 12%. **Senator Flakoll:** What percent does the amount you reference, about \$100,000 represent of these schools' total budget? **Rhoda Young:** Can't answer that.

**Senator Gary Lee:** Is Anne Carlson the only place that would be affecting Jamestown or are there other children outside of that facility that may affect how Jamestown costs are accrued? **Rhoda Young:** No, this particular change would involve only the students that are placed at Anne Carlson School with parents residing in the district.

**Senator Heckaman:** Why just Anne Carlson Center (ACC) and Harmony House; not others that house children? Do they have a different reimbursement rate? **Rhoda Young:** Will defer that question to Jerry Coleman, DPI.

**Senator Flakoll:** What about places like—Bismarck is a regional medical service center, and gets students here whose parents move here that are higher cost, higher need, special education students. They have a similar problem but are not part of this bill—what do we tell them? **Rhoda Young:** Is a difference; these are residential homes, 24 hour care. Significant needs have to be met; many long term placements.

**Connie Hovendick, Director of Special Education, Lake Region Special Education Unit** testified in favor of the bill. (#3 Testimony) Addressing the second part of the bill which addresses the boarding care and affects those schools. Answered Senator Flakoll's question regarding Bismarck and medical care centers. The other difference is that Bismarck provides the education of the student so have control over the costs and do their own schooling. At ACC the school doesn't have any control over the cost of the education, so little different with different facilities. If just residential or entire program.

**Senator Flakoll:** The state pays the special education costs if the student stays in the home district. How do we ensure that you don't over place to save money? **Connie Hovendick:** Using the boarding care system which is 80/20, in those two group homes we get 80% back so still pay 20%. Still look the needs of kids before doing a placement because there is a considerable cost to the school. We provide all of the education ourselves; the boarding care only pays for that evening residential piece. Has to go through several teams before a student is placed. **Senator Flakoll:** Have students that cost \$150,000-\$200,000+ which the state pays most of, outside the boarding costs. So what would discourage a district from trying to have those students placed? **Connie Hovendick:** Not set up for those students; their costs aren't that high. The program is just for vocational and independent living. In their unit they don't have any within district programs that are those kinds of costs. Those are usually a higher level of treatment than they can provide in their unit. Still may place a student at ACC from Devils Lake. **Senator Flakoll:** How does this differ from between family placement and agency placed. **Connie Hovendick:** The boarding care are only family placed for the second section of this bill.

**Senator Heckaman:** Could Harmony House have someone in Section 1 though, or always in Section 2 boarding care costs? **Connie Hovendick:** Harmony House can have students from both. New Outlook is not.

**Doug Johnson, North Dakota Council of Educational Leaders** testified in favor of HB 1074. (Attachments #4 & #5 supporting documentation) Asked all special education units in the state how much money they would have spent to place a student in a location if their school district had any costs impacted. Most of the school districts would have no cost. They provide the educational services for those students themselves. Only place that did have the costs were from Lake Region Special Ed Unit and the James River Special Ed Unit. Fiscal note provides #1 million as not sure how many districts might take advantage of this in a different way than they considered so far. Have assurances from the other special education districts in the state that they do not see any costs going over \$500,000 for the biennium. Contains an amendment to sunset in 2013 to relook the situation.

**Senator Gary Lee:** Regarding the comment--schools may take advantage of this in some way that you hadn't thought about. What might those be? **Doug Johnson:** Not quite sure; they might see an opportunity to try and save some money for the district. For example: Manchester House--if those students are placed there and the parents live in the district, is there a cost they might be able to recoup through this process for that placement through the evening residential part of the program. At this point, that is not an issue for them. **Senator Gary Lee:** You have the Fargo unit--the Boys Ranch, Luther House, Prairie Psych. Hospital. Would this put them in the category of having an opportunity of gaining some additional compensation if the bill passes--would they be included in this? **Doug Johnson:** Refer to the letters of support; look at last paragraph 2 from the Fargo Unit director. (Read from letter) Placed by agency so costs are covered by the state.

**Senator Flakoll:** Is it correct in thinking that this would not impact the Home on the Range in any way? **Doug Johnson:** Those students are (mostly) agency placed or judicial system. **Senator Flakoll:** Is there any evidence that shows Jamestown and Devils Lake have any higher special ed costs as a percentage of their total budget than other districts? **Doug Johnson:** To his knowledge the only difference is these residential placements costs they have for those particular situations in their district. You have to realize it is for the least restrictive environment for the child. If a Bismarck parent placement puts the child in the Jamestown ACC, the cost would be covered under this provision. If the parent decides to move to Jamestown to be near the child, they would not be covered under current law and cost is passed to Jamestown. Saw it as an equity issue on that particular situation. The other cost you may refer to, 10 to 12% of their students are IEP students and the costs are generally the same except in small districts where there may be a significantly impaired child that requires a lot of care.

**Senator Flakoll:** If they Anne Carlson Center were to launch satellite operations in Bismarck, then the same would hold true with those students in that facility would be treated the same as those that would be at their current location in Jamestown--would that be correct? **Doug Johnston:** That would be correct; under current law if that student is there for an overnight residential placement the cost would not be covered for those students in Bismarck. With the passage of this law then both Jamestown and Bismarck would be treated equally and the cost would be covered.

**Jerry Coleman, DPI School Finance:** (#6 Testimony) provided neutral information regarding the bill and costs, and how the department would implement if passed. There are three types of placements: #1 School placement (district makes the placement)--liability threshold is 4 times the state average or around \$36,000. #2 Agency placement (external party or parent makes the placement) which is what is addressed in this bill. Financial liability is quite significant; that threshold is only \$9,000 or the state average. Any additional costs are picked up by the state. Can be regular and special ed students; disability doesn't matter. Resident district is determined by the residence of the custodial parent. Are cases where students don't have a resident district, where the courts permanently sever parental rights or parents leave the state; the state picks up all the costs Those are called "state responsible". #3 Boarding care--room and board costs. This would be New Outlooks and Harmony House. For those, if the student is coming in for boarding

care outside of the resident district then the state pays 80% of that cost. The amendments are in two parts; Section 1 that makes the parental placements eligible as an agency placement. It doesn't matter where the student resident district is; can be within or outside so opens that up. Tricky part—how wide does it open that door. Placements that would not meet the criteria which would be a residential facility that are under the control of developmental disabilities or human services foster care. The ones under DD; thinks that opens up the ones that are located in a community too. Most of the group homes for DD are designed for adults but there are students age 6 to 21 that are in those facilities.

The boarding care costs criteria: must be in a facility to receive special education services (no change) but it doesn't matter where the student lives as it opens it up for them. We would interpret that if they are placed in a boarding care facility and the district is picking up the cost then that would be termed a school placement in terms of the educational class, and would be subject to the 4 times for those that are boarding care. That would be DPI's interpretation that if the school district is picking up the boarding care cost for students then the liability for the educational costs would be the 4 times.

Currently have about \$60 million appropriated for this next biennium to cover the special education contracts. About 80% of those dollars will go out to agency placements and the 4 times usually eats up about 20% of that funding.

**Senator Luick:** How do surrounding states handle programs such as this? **Jerry Coleman:** Everyone has different ways of handling programs; no good answer for that. Funding is all handled different. **Senator Luick:** Do we see out of state students coming in? **Jerry Coleman:** Don't have a number on that; if they are coming from another state, the expectation is that the other state would be paying the costs for them so we don't see them. **Senator Luick:** Do you feel that this may be some sort of catalyst to encourage that influx from other states if we create a program like this to offset these costs? **Jerry Coleman:** Don't see that creating a problem of bringing kids from out of state because if we accept them the financial responsibility remains with that other state. We won't be educating other states kids for nothing. It could create or open the door for deciding there is a big advantage of getting it off a school placement to treatment as an agency placement. Will that make a difference in encouraging people to get students placed in a residential setting? The thing we are opening up with this amendment is it deals with kids that are placed in residential settings under the control of foster care or developmental disabilities without regard to where those students live. Most are living in that community but we do have the issue like Jamestown where the family is relocating solely because they want to be near a child living at ACC which makes that school district responsible for more special education costs than they would ordinarily. Bordering districts like Fargo/West Fargo, Bismarck/Mandan, etc. not an easy thing to deal with.

**Senator Flakoll:** How are funds reimbursed—from DPI to the district to the placement facility? Nothing paid directly from DPI to the facility? **Jerry Coleman:** It is a reimbursement for costs; we do pay some directly, but it is a reimbursement to the district for those costs.

**Senator Flakoll:** The Anne Carlson Center has a "graduation" ceremony every spring. Are those students then ineligible even though they may continue to stay on at the ACC? How does that work? **Jerry Coleman:** The school's responsibility to educate a student

ends when they graduate or age 21. They should not be graduating those students if they intend to provide services until age 21. Sometimes they like to put them through graduation ceremonies, usually termed differently but if they officially graduate the student, the financial responsibility is not on local district anymore.

**Senator Flakoll:** Thinks he wants a YES on this question—is it not true that ACC, for example, has a limited number of spots that they can have for people within their facility by state law? **Jerry Coleman:** Not sure of that; that is a licensing issue if a capacity kind of issue.

**Senator Flakoll:** To follow up on Senator Luick's question—this bill is more of an advantage to school districts and not as much to families. There is more incentive in this for the district because of the financial assistance it provides rather than incentivize families to move into Jamestown or Devils Lake from other communities or out of state—is that correct? **Jerry Coleman:** Thinks that would be correct; the family doesn't benefit from the financial reimbursement levels. The public school district is assuming that responsibility, so don't imagine it matters who is paying the bill.

**Senator Heckaman:** Can you give the history of the 4 times state average costs? **Jerry Coleman:** It used to be 2.5 times the state average before the new formula. Made some major changes, reinvented the state aid formula. Prior to that the threshold was 2.5 times however it excluded other state resources that were available for funding because they got block grants from the state for special ed, so those were excluded out of the test. There was a 20% co-pay, so it was 2.5 times but we subtracted a number of things to determine that. That system was heavily modified and with the new formula it went to 4.5 times the state average, and it got rid of the 20% co-pay offset; simplified it in a way. The concept behind it is for the upper 1 or 2% highest cost students. This is the insurance bill; supposed to cover you for catastrophic kinds of situations. That came out of recommendations from a study by Tom Parrish around that time. The commission used that report quite heavily. The 4.5 times was too restrictive because it did not spend the appropriation, so last session the threshold was dropped to 4 times. The new formula has a factor in for special education of .07 and the new recommendation is to go to 0.73. He took a look and tried to a sense of what that does for total school district expenditure. That factor in the upcoming biennium will generate about \$56.7 million, and then we have \$16 million is set aside for the special education contracts, so close to a total of \$73 million in state dollars. When you look at that in comparison to the percentage of their expenditures it is about 22%; think the federal contribution is right around 20% level also. The locals are picking up in real broad numbers about 60% of the costs of special education. There is about \$156 million was expended on special ed the last school year. As a percentage of cost of education that is about 16%; gives a sense of where we're at with that program.

**Senator Gary Lee:** Are special education costs growing? **Jerry Coleman:** The trend that it costs more and more; special education costs are outpacing the regular ed costs. We are just identifying or providing more special education services. Do have some directors here that can add to that. Didn't take a look to see if that has changed dramatically. Suspect it has inched upward. **Senator Gary Lee:** Just the number of students—are we seeing more students in the special ed category? **Jerry Coleman:** Dr. Gronberg says the

percentage is probably up but a small increase. As he understands it runs roughly about 14% statewide; think that is what he recalls came from special ed on the child count.

**Senator Flakoll:** Rarely disagree with Jerry, but when you say the local school district has to pay 60% of the costs for special ed child, we send out \$100 million new dollars this session and essentially dollars they will use for those purposes. We have that are obligated toward special education, but the \$100 million is certainly for special education, correct? **Jerry Coleman:** Special education kids get general education too. The costs that he is identifying, \$156 million last year, that is a gross figure that is the additional services they report for servicing those kids. They are also in the regular ed setting and those costs are not in the \$156 million. His interpretation of that is those costs are over and above the regular education costs.

**Senator Gary Lee:** Is this the original fiscal note for the engrossed version; date the 9<sup>th</sup>?

**Jerry Coleman:** If it is the one with \$1 million; first we put in \$2 million but after following up on the boarding care data that he used to calculate that. It was unreliable so settled on \$1 million. No additional cost because of the boarding care; expecting that because we're opening up the other end to this parental placement into residential settings that are within the home district. Think it may add in a couple of other locations; Bismarck & Minot, not sure about Fargo.

**Gary Gronberg, Assistant Superintendent, DPI,** testified to add a little to Senator Flakoll's question about incentivizing to parents as opposed to schools or does this incentivize at all. This whole section 15.129.14 where it talks about the student that is voluntarily admitted to a state license child care home or facility. Jerry talked about that in terms of payments; his comment about this is that when this was set out it was meant to deal with students that were in drug/alcohol treatment at the State Hospital adolescent unit where students would be placed by a parent. It has been expanded over the years and that section continues to grow where more and more the parent can defy an IEP team or student placement team or they can be encouraged by developmental disabilities or some other advocacy organization to placing their child at a place like Anne Carlson Center, or to place them at Dakota Boys Ranch or such like facilities. Then it changes who pays the cost; they say it is easy for a parent at that point because the state assumes the responsibility; the school has to pay the average per pupil cost, the state assumes the rest. That is a very easy argument to make; there isn't a whole lot of resistance on the part of the school because if the school places the child they have to pay 4 times. As a school administrator or whatever—which would you rather do, pay 4 times or 1 time? It is much easier to bite off and say you don't have an argument with a parent to argue the placement if you only have to pay 1 time the average per pupil cost as opposed to 4 times. Parent has much more choice now than they've ever had before because they can work around an IEP team, and unless the school district is willing to take the parent to a due process hearing and potentially court, they will go along with the parent desires. Just saying this whole section is going to be troublesome and future trouble if we continue to expand and open up that possibility for a parent to place the child wherever they want.

**Senator Flakoll:** If SB 2150 passes with the backstop where the state pays the full costs and backstop built in—will that also cover this? Basically will cover everything and will take out a bank loan to do it. Are the students talked about in here, Section 1 and Section 2,



subject to that provision? **Gary Gronberg:** The answer is yes. **Senator Flakoll:** Looking at the fiscal note, it looks like there is probably \$500,000 for boarding costs, and about \$208,000 in anticipated costs under Section 1. Could we make it for \$708,000 and then the provision with the backstop kick in after that point if it is needed? **Gary Gronberg:** Sure that would be possible; what we built in with the initial fiscal note of \$2 million is the uncertainty. If the \$700,000 is the certainty, yes you can fund it that way and depend on the uncertainty to go to the Bank of North Dakota.

**Senator Gary Lee:** Some of the early testimony said that they were getting paid these dollars before in this way and now there was a change at DPI and not getting paid, so we need to put this language in the bill to make it the way they used to get paid. Can you comment on that at all? **Gary Gronberg:** Part of the issue isn't just the fact that DPI just caught up to this issue given the new computer program. That deals with some of it. The other part of it is we've come across some issues where we used to have many more agency placements than we had. Those agencies are also working within the limits of their appropriation to pay, for instance, the residential costs at ACC. So, while they're encouraged on the part of the advocacy organization that might be helping the parent at this point in time, the voluntary nature of these placements where they say it is not an agency placement, it is a voluntary placement on the part of the parent. They are beginning to "catch on" to this idea of the state will pay the cost if they can make it a voluntary placement. The "nature" of the kind of placements that are being made there are changing. Now a situation where he thinks these kinds of placements will grow even more than they are now.

**Senator Heckaman:** If an agency places, do parents have to give up guardianship versus if they voluntarily place they don't have to? **Gary Gronberg:** That is exactly the situation. Courts are less reluctant to assume custody, we want to maintain that relationship with the child, therefore it places more weight on this type of placement than it does on an agency placement where they assume care custody and control of the child. All of his comments are directed to Section 1 of the bill, not Section 2.

No further testimony; hearing closed.

**Senator Flakoll:** offered an amendment (#7 attachment) to Section 3, for the appropriation to be changed from \$1 million to \$708,000. That appears to be the more the certainty amount and the backstop is in place with SB 2150. Move a Do Pass to the Flakoll amendment; second by **Senator Luick**. Motion carried 7-0-0 (Vote 1A).

**Senator Flakoll** moved a Do Pass as amended to Engrossed HB 1074, and rerefer to Appropriations committee; second by **Senator Schaible**. **Senator Flakoll** wanted to share a point, in the spirit of transparency, he does serve on the board of the Anne Carlson Center. This doesn't impact the money they get, it just helps the school districts out not the ACC. Checked with them and they are licensed for up to 55 residential individuals.

Motion carried; 7-0-0 (Vote 1B) **Senator Schaible** will carry to the floor.

Proposed Amendment to HB 1074 (Flakoll)

Section 3 "And to provide an appropriation of \$708,000.00."

Renumber accordingly

DRAFT

#7

Date: 3-2-11  
Roll Call Vote # 1A

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1074

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number Flakoll Amendment

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Sen. Flakoll Seconded By Sen. Luick

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	X		Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee	X				
Senator Larry Luick	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Chg FN to \$708,000

Date: 3-2-11  
Roll Call Vote # 1-B

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1074

Senate Education Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Sen. Flakoll Seconded By Sen. Schaible

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	<input checked="" type="checkbox"/>		Senator Joan Heckaman	<input checked="" type="checkbox"/>	
Vice Chair Donald Schaible	<input checked="" type="checkbox"/>		Senator Richard Marcellais	<input checked="" type="checkbox"/>	
Senator Tim Flakoll	<input checked="" type="checkbox"/>				
Senator Gary A. Lee	<input checked="" type="checkbox"/>				
Senator Larry Luick	<input checked="" type="checkbox"/>				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Schaible

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

**REPORT OF STANDING COMMITTEE**

**HB 1074, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1074 was placed on the Sixth order on the calendar.**

Page 1, line 3, after the first semicolon insert "to provide an appropriation;"

Page 2, after line 23, insert:

**"SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$708,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of reimbursement of boarding care costs, for the biennium beginning July 1, 2011, and ending June 30, 2013."

Renumber accordingly

2011 SENATE APPROPRIATIONS

HB 1074

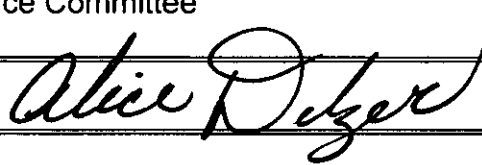
# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

HB 1074  
03-14-2011  
Job # 15385

Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

**A BILL relating to school district reimbursement for boarding care costs; to provide an effective date; to provide an expiration date; and to declare an emergency.**

**Minutes:**

No attached testimony.

**V. Chair Bowman** called the committee to order on Monday, March 14, 2011 at 2:30 pm. All committee members were present except Chairman Holmberg. Joe Morrisette, OMB and Sheila M. Sandness, Legislative Council were also present.

**Doug Johnson, Executive Director of the ND Council of Educational Leaders.** I am not the sponsor of HB 1074 but I have been very involved in the background of this bill. This bill in essence takes care of a situation particular to the schools districts at the Jamestown Public Schools and the Devils Lake area. Currently what happens is, when a parent places a child in a boarding care situation, such as Anne Carlson School, the law the way it is written at this time, does not allow a school district to get the funding paid at the lower rate. If that parents child resides within the school district,, and for example, if a parent moved into Jamestown and enrolled on their choice, a child at the Anne Carlson School, that school district would be capped at the 4.5 times the cost of education. They would have to pay that amount. HB 1074 makes it so that, school districts such as Jamestown, that have parents relying on that school district, and if they have their children going to the Anne Carlson school, they would be paid at the normal rate, which is 1 times the amount of the foundation rate or the lesser amount. It does have a fiscal note to it and that is why it is before you. The bill, as it came out of the House, was passed by the House, as a DO PASS, unanimously, and when it came over to the Senate Education Committee, they gave it 7-0, DO PASS and they added on to it a \$708,000 appropriation and that is why it is before you today. It should be noted that the reason for the appropriation, the estimates were based on presentations by Jerry Coleman and his fiscal note, and he is here to explain that to you. The fiscal note, with his estimate, was about \$1 million dollars. I will let him explain how the Senate Education committee came up with the \$708,000 figure. I will provide to you some breakdowns and information I have from school districts in Bismarck and surrounding areas. I did contact all the special education directors in the state of ND and asked them specifically, how this bill would impact their school districts? If there would need to be additional funds to be sought? If you look at the spreadsheet, the Bismarck Public Schools has a Manchester House and letters supporting this documentation from back in January, as well. They indicated that they would see no costs that would be

involved. Lake Region Special Ed. Unit has the Harmony House. They are estimating currently for 2009-2010, that it would be \$88,000-\$89,000 for the cost. The Wilmac Unit, that has zero costs and then the Fargo Special Ed. Unit and the James River Special Unit, are the only other two that have some significant residential treatment places where students are placed by their parents. Fargo estimated that there would be no costs because they have a quid pro quo type of arrangement. They provide the education and they don't have to pay the residential costs for those students. The James River Special Ed. Unit is significantly impacted at a \$140,000 for 2009-2010. Projecting that forward, we have about \$228,000 per year and for a total cost of close to \$500,000, from our estimates from the Special Ed. directors, based on 2009-2010 data. It does impact 2 school districts. We do not know at this time, exactly how it will impact school districts throughout the state. They may have residential settings in their districts that the parents would elect to send their students to. This concludes my testimony and I encourage your committee to give HB 1074 a DO PASS.

**Senator Warner** states that you mentioned something about parents voluntarily sending their children to these schools. Is there an alternative and do they still do this, where a child is considered a ward of the state and the abandonment of parental rights?

**Doug Johnson** states, "That is correct". There is state law that does provide for that. They come under a different provision and then their costs are totally picked up by the state when that does happen.

**Senator Warner** states, "If we don't enact this, there is the potential of creating a moral hazard, where we would encourage parents to transfer the responsibility for their children?"

**Doug Johnson** states, "I don't believe so, that is a pretty entailed process for them to go through that. It is usually when you truly have an abandonment of a child." It is not a common occurrence in the state of ND.

**Senator Wanzek** states, "From what I understand, with visiting before the session with some local Jamestown officials was that, typically in a situation, is if a parent makes a decision to use the services of an Anne Carlson Center and they place their child there, it appears more common that the parent would follow the child there and take up residence. If they didn't follow them there, they would get reimbursement but if they follow them there and relocate into the district, it seems kind of unfair that the school district is being punished for the parent moving in and being with their child, when they are placed in a special needs situation.

**Doug Johnson** states, "That is exactly correct". We saw that was happening. They do have some parents, who obviously want to follow their child there. Do remember, this is for a "parent choice placement". Not a school district placement. It is for the residential costs, the cost of keeping that child, not for the educational costs. There are two different things going on here. When I met with the Special Ed. directors, when they asked for my help in working on this bill in April of 2010, they saw that as an unfair advantage. School districts, such as in Bismarck, whose parents select to have their child go to Anne Carlson, as opposed to a school district in Jamestown, like Jamestown, who had the parent living there or would decide to move there to be closer to their child so they could be part of that program.



**V. Chair Bowman** asks if this bill was written by whom and for just Jamestown and Devils Lake?

**Doug Johnson** states it was introduced by Rep. Hansen, from Jamestown and Rep. Dennis Johnson, from Devils Lake. Those are the two school districts that have had the most major impact with this financially within their school districts. They were approached by Special Ed. directors from the state, as a collective group, to see if they would draft this bill and I assisted them on what the process was in putting the bill together and help getting something drafted.

**V. Chair Bowman** asks if these are the only school districts that currently don't get reimbursed for these Special Ed. kids?

**Doug Johnson** states, those school districts would typically be the ones, where parents are living within their school districts. The way the law is written right now, if they are within the school district, they are not eligible for that reimbursement. So that impacts those school districts. If you look at the bill itself, on page 1, subsection 14, line 23, they have added, "either within or outside the school districts" so it now includes those people to be within the school district, whereas before it "only took care of those students that were outside of the school district". That is the clarifying language that was added to the bill. One other thing, they did add was to put a "sunset clause" because they weren't sure exactly what the fiscal impact would be on the state over the next 2 years. So that, should there be more or less, we would have to come back and request this to be put in place again.

**Jerry Coleman, DPI.** I want to give you an overview on what can be kind of a complex thing to understand. We have a contracting system to assist school districts for very high Special Ed. costs for certain low incidence students. It is designed to protect school districts, if they have one student, who is extremely high cost and their liabilities are limited. There are 3 categories that they fall into. We have school placements, where these placements are made by the IEP team, to address the unique needs of the students; they can be within the district or outside the district. The second category is agency placements. This where an external party makes that placement. This is like the Anne Carlson Center in Jamestown. A court or juvenile services make this placement and it is usually foster care types of placements. Voluntary placement is when residents are placed outside their resident school districts. Boarding care is the third situation. Boarding care is dealing with the residential costs. In the other situations, we were talking about the educational costs for these students because the boarding care is picked up by the agency that is actually doing that placing. For example, foster care makes the placement and then they have funds to pay for the residential component. There are situations, such as in Devils Lake, that places some of their students into the group homes as part of their special ed. programming and they will pay that residential cost. We are talking about liability thresholds for each one of those. We have the three different categories. School placement, agency placement and then we have the boarding care cost situation. Where we are uncertain here, is the financial impact.

**Senator Christmann** states when I think of education funding, if you took one part of funding, you can find some schools that are really getting a bad deal but they are making it up someplace else. It seems odd that this comes out of nowhere and these two districts have been absorbing these losses all these years. Where did this come from?

**Jerry Coleman** states I believe what happened, these situations, we've been reimbursing them for these situations in error. What brought it to light was that we have been computerizing our contract systems so we had more information and when we looked at how the law read, we were identifying how these were resident students of the district. It just came to light, so we have agreed to reimburse them through this biennium, so if this doesn't pass they will lose that funding. Also, a similar situation with Jamestown.

**Senator Christmann** states, are they are ok through the end of this biennium, without this?

**Jerry Coleman** states, "Yes".

**Senator Christmann** states that whatever "pool of money" they have been getting reimbursed from, if we pass this and reimburse them from a separate "pool of \$1 million", what happens to the other pool that has grown by a similar amount?"

**Jerry Coleman** states that the funding for this program is in the special ed. contracts line. For the next biennium, it is \$16 million that is appropriated for that purpose. It's a pool of money that is set aside at the state level, to make these reimbursements. Right now, we have the Jamestown situation, that will be an additional cost to the contract system the next time, but the Devils Lake situation, we are currently reimbursing it so there would be no additional impact on that appropriation. This isn't foundation aid; it is special ed. contract money.

**Senator Christmann** states if we've been reimbursing, but now it's not technically correct, when did we find that out. When the governor proposed the budget, he assumed, we were going to continue doing it that way. So all we need to do is fix the law, it shouldn't take any more dollars.

**Jerry Coleman** states that this will expand the number of students that will be eligible. There will be new contracts or the ones that we are currently reimbursing. If we have a Manchester House here in Bismarck, a residential setting, if there are placements into there and they happen to be Bismarck residents, then they would be eligible for the lower liability threshold. That would cost money for those and there would be a similar situation in Minot, with the Dakota Boys Ranch. It is a kind of "I don't know type of situation" and it is going to expand it. How many new students will be eligible, we won't know. The potential is that they will become eligible.

**Senator Christmann** asks when did we discover this that what we were doing isn't exactly according to law?

**Jerry Coleman** states this current biennium.

**Senator Kilzer** asks, did you say that the one line item was \$16M in the present biennium for special ed.?

**Jerry Coleman** states that would be in the department's appropriation bill, HB 1013. There is a separate line item for \$16M and that was in executive budget.

**Senator Kilzer** asks if that was included in what we are talking about today?

**Jerry Coleman** states that included only the amount for Devils Lake not for Jamestown.

**Senator Kilzer** asks, where is the Jamestown number?

**Jerry Coleman** states Jamestown is not getting reimbursed this current school year.

**Senator Kilzer** states, maybe we should take a look at the breakdown of that line item.

**Jerry Coleman** states, we certainly can. Do we want to look at the fiscal note? The situation that we know about is that we have 4 students in Jamestown and that would cost us \$104,000, if it was based on last year's data. We will need \$104,000 for two years for that situation, so we need \$208,000 for that and we need an additional amount for the unknowns. There is an amendment to # 2150, that if that contracts line is short then there is a transfer line out of the Bank of North Dakota, to cover the shortfall and the following biennium, we put it in the dept. appropriation request.

**Senator Kilzer** states that he would like to see a little more. I would like to hear testimony from the Jamestown institution. It does sound pretty uneven.

**V. Chair Bowman** states they will have a subcommittee that should work on this and I think there are a lot of unanswered questions and that needs to be discussed thoroughly. We are adding for something we don't know what we are adding for. The unknown is kind of a guess.

**Jerry Coleman** states, that is certainly true. The amount of students that would be added is an unknown.

**Senator Wardner** asks about Devils Lake. You didn't realize it, why did they continue to get their reimbursement? You caught Jamestown but not Devils Lake.

**Jerry Coleman** states it was the timing. We caught the Jamestown situation in first part of biennium and the Devils Lake situation surfaced in the second year.

**Senator Wardner** states, Like in Bismarck, at the Manchester House, didn't they realize that they could collect that extra payment or why didn't they?

**Jerry Coleman** states they do not have placements in that Manchester House. We have residential group homes; sometimes there are students in the group home that happen to be Bismarck residents. That is one of the reasons for the sunset on this bill also. It's hard to know what type of situations will be there. These will be for students that are in a residential placement and what the amendments do is say that it doesn't matter where the resident school district is, in terms of applying the liability thresholds.

**V. Chair Grindberg** asks a question to Sheila.

**Sheila M. Sandness** states when we reviewed the appropriation section 3, line 27, should refer to reimbursing school districts for boarding care costs incurred under and the section code reference would be 15.1-32-19, just to make it clear that it wouldn't be all voiding costs, just under that section.

**Senator Wanzek** asks again, as I recall when this was presented to us by the local school officials, if V. Chair Bowman has a child and I have a child that have similar special needs and the Anne Carlson Center in Jamestown can provide those needs, and we both send our child to that school, his child will be reimbursed, as long as he doesn't move there, mine won't be because I live in the district?

**Jerry Coleman** states that is somewhat correct. It would be subject to a different liability threshold. One would be called, under current rules, a school placement and if a school makes the placement, then the threshold is like \$36,000. If it gets treated as an agency placement, that threshold is \$9,000 and currently, if you live in that district and your students resides in this facility vs. at home, that doesn't matter, if this bill goes through. Then that would matter, in terms of which liability threshold you would have. If students are living in your school district currently, that is called school placements, and they are subject to that higher liability threshold. If an external agency does it and makes this placement, then they get this lower threshold. Right now, that external placement, and it happens to be a parent that makes that choice to get them put in that residential setting, and then it doesn't.

**Senator Wanzek** states that the problem is when V. Chair Bowman decides, because he is placing his child here and he decides he is going to move and take residency in our district now, and then the reimbursement is different.

**Jerry Coleman** states that is correct.

**Senator Wanzek** also asks, you said in bill #2150, it says if the Special Ed. line item comes up short that I was thinking there is no appropriation in this bill, just an impact. So I assume you have to operate within what the appropriation is for Special Ed.? I guess you have someone who answered that, there is a provision that will you to go beyond the appropriation, if the numbers are short?

**Jerry Coleman** states, "Yes, that is an amendment that is on # 2150 and it is not that new either, when the new formula was put in under #2200. That language has been used two biennium's now. It is also in SB 2150 to guarantee that contract line is good. So if you chose not to add an appropriation for this and those lines were short, then that authorizes a transfer, somewhat like a loan, from the Bank of ND and then we have to come back in the following biennium to replace that back in the general fund.

**Senator Krebsbach** asks is this payment through authorization, through the special funds from the federal government, is it a requirement of theirs or how does it come about? Through what area are we paying this in the state?

**Jerry Coleman** states it is state funds. It is like an insurance pool. It is set aside and it is state money and its \$16 million in appropriations and there is a line in our department budget.

**Senator Krebsbach** asks is this something that's been going for some time, how did it come about that we started paying this?

**Jerry Coleman** states that this contracting system has been around for 15 years; formally it was a paper process. It is a lot of administrative burden that goes along with identifying costs. What had been a paper process is now computerized, so now we have more information to verify things on those contracts.

**Senator Wanzek** asks, to use the analogy again, V. Chair Bowman sends his child there from the Jamestown Public Schools perspective and now I am beginning to think this is where the confusion came in. It was being reimbursed at a certain level, under the understanding of the law, and then when V. Chair Bowman moved in, it all of a sudden changed. When the parent follows the student, then the cost goes up. We want to help the student but we'd rather he'd stay put and not move into the district.

**Jerry Coleman** states, yes, that is the real deal. You could live ½ mile apart and get treated differently anywhere in ND. The parental placement side of this is kind of like the "new thing" the last few biennium's.

**V. Chair Bowman** asks if there is any other testimony for or against this bill.

**V. Chair Bowman** closes the hearing on HB 1074.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1074  
March 31, 2011  
Job # 16261

Conference Committee

Committee Clerk Signature

*Rose Laning*

### Explanation or reason for introduction of bill/resolution:

A bill relating to school district reimbursement for boarding care costs.

### Minutes:

No Written Testimony

**Chairman Holmberg:** Called the committee hearing to order on HB 1074.

**Senator Wanzek:** Said that when a child is privately placed in an institution like Ann Carlson center and they come from outside the district the home district the state reimburses for the cost that exceeds the state wide average. He said if it is a child within the district that is privately placed than the school district would have to pay 4x the average cost which is \$36,000. He said he feels it is a matter of fairness, it does help pay for those high cost students that do come into the Ann Carlson center from outside the district where their parents may follow them there to be closer to their child while they are enrolled or boarded in the Ann Carlson center. He said the school district in Jamestown ends up paying for the higher cost for that, so it is vital to them.

**Chairman Holmberg:** Said the fiscal note on this is not 2009 because it was amended to \$708,000. That's what it will cost the general fund. He said that they needed the current amendments, it puts into appropriations \$708,000.

**Senator Robinson:** Said that it is not only for Jamestown but the deaf school in Devils Lake.

**Senator Christmann:** Asked if this is the shortfall for the families who live in the district, they are doing okay on the ones where the families to choose to live 100 miles away and just send the kids there, it's when they move there too.

**Senator Wanzek:** He said as he understands it if you had a child that needed those services and sent your child to Ann Carlson center your school district would have to pay the average state wide cost for special needs up to \$9,000. He said if his child needed the same services and he lived in the Jamestown school district then his school district would have to pay \$36,000 which is 4x the cost.

**Senator Kilzer:** Said that there is an incentive for school districts that have a special needs child to shed themselves with the responsibility by encouraging the family to move out of their

district. He said he has a difficult time with that incentive and the shift over to the taxpayers of what has started out as an obligation to these school districts of origin.

**Senator Christmann:** He asked if this is changing because lifestyles and families are tending to move with the child and stay closer so it has become a bigger burden and that is why there is the need for the bill or was it just done that way because of the assumption that it was a benefit to the school district having that facility there.

**Chairman Holmberg:** Said that most of the children were put in Grafton years ago. He said through the institutionalization there were some places like the Ann Carlson school that took up the burden and it was a situational thing if you lived in the Jamestown school district and your child needs the services and because that service is provided in the same school district where the child is the school district has to pay 4x the cost to the taxpayers of that school district.

**Senator Wanzek:** Moved Do Pass on HB 1074

**Senator Christmann:** Seconded the motion.

**Senator Fischer:** Asked who pays for the child that is outside the district now.

**Senator Wanzek:** He gave examples of can of how it works and said it is a matter of treating all districts equally.

**Senator Kilzer:** Said if Senator Wanzek's scenario is true and if another big item that the cost were being totally paid for then we wouldn't need a fiscal note here. He asked if the fiscal note present because there is not enough reimbursement for each child.

**Senator Wanzek:** He said it would put all school district on the same level. He said Jamestown would still have to pay the \$9,000 but right now they are paying \$36,000.

**Chairman Holmberg:** He said the state's cost for boarding care averaged \$250,000 a year.

**Senator Warner:** Said that if a student is remanded to youth corrections the home district pays some of the cost but he said state licensed child care or foster home, could this also include Home on the Range for boys or Dakota Boy's Ranch those types of facilities where there are boarding costs associated with their residents?

**Senator Wanzek:** Said they are talking about privately placed children and what Senator Warner is talking about is a court ordered case, and the higher costs are already being paid by the state.

Discussion continued on the costs and who would be covered and why this has just come to them now.

**Chairman Holmberg:** Commented about the students that are sent out of state and that cost to the state. He said that this bill just has to do with the taxpayers in the Jamestown district.

**Jerry Coleman, Department of Public Instruction:** He commented to the question about the boarding costs and why did it take this long to see this. He said this is a system but in place that they call student contracts where it limits the liability for school districts or certain costs to students, special education students generally and there are a lot of different situations. They generally have three liability categories that these thresholds test, they are school placed for educational purposes, or they are agency placed which are usually court ordered placement into foster care and the third category is boarding care and that is residential cost which is a distinct category. He said that three biennium's ago there was a change that allowed voluntary placements to become agency placements that is the category where the districts responsibility is much less than a school placement, when they passed it they said it was only for students that were not living in your school district. When they started to computerize this information that is when they were able to see the problem. This change will disregard the residence of the students in determining whether or not they are an agency placed student.

**Senator Warner:** He asked how expansive is the definition of eligible homes could one of the foster homes be considered for this kind of funding.

**Jerry Coleman:** He said the types of homes that would be residential facilities that would be allowed under this section would be those that are defined in two section of the century code. He stated from the century code, those that are controlled overseen by human service foster care or the developmental disabilities. They would either be residential childcare homes or facilities licensed either by foster care or developmental disabilities.

**Chairman Holmberg:** Asked if a child was placed at the Ruth Meier's Home and came from a different district if the aid would follow them and if they had no special education issues would it is a wash for the school district.

**Jerry Coleman:** He said in that situation, the resident school district would be responsible for all educational and related costs up to a threshold. He gave an example.

**Senator Kilzer:** Asked if the fiscal note was because of the error or are there other factors in there.

**Jerry Coleman:** He said the fiscal note is because of the additional unknown students that will probably become eligible that we don't know about. It will allow any type of these situations to happen and felt that it would add a million dollars over time to the cost of the contracts.

**A Roll Call vote was taken. Yea: 11 Nay: 0 Absent: 2**

**The bill goes back to the Education Committee and Senator Schaible will carry the bill.**



Date: 3-31-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1074

Senate \_\_\_\_\_ APPROPRIATIONS \_\_\_\_\_ Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Wanzek Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell		
Senator Grindberg			Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Education Schaeble

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

**REPORT OF STANDING COMMITTEE**

**HB 1074, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1074, as amended, was placed on the Fourteenth order on the calendar.**

**2011 HOUSE APPROPRIATIONS**

**CONFERENCE COMMITTEE**

**HB 1074**

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

HB 1074  
4/13/11  
16538

Conference Committee

Committee Clerk Signature

*Shirley Branning*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subsection 1 of section 15.1-29-14 and section 15.1-32-19 of the North Dakota Century Code, relating to school district reimbursement for boarding care costs; to provide an appropriation; to provide an effective date; to provide an expiration date; and to declare an emergency.

## Minutes:

||

**Rep. Monson, Chairman:** All members are present for the Conference Committee meeting on HB 1074, beginning with an explanation of the \$708,000 from the Senate side.

**Senator Schaible:** We figured this with six students, two in the Devils Lake area and four in the Anne Carlson School. The Senate used the figure of \$104,000 for four students or \$208,000 per biennium. The boarding costs have averaged \$250,000 per year equaling \$500,000. For the total of six students it came up to the \$708,000 so to be prudent that would be the appropriation. It amounts to exact figures that we thought it would be.

**Rep. Monson:** Your \$500,000 is for boarding and the remainder \$208,000 is for the education costs.

**Senator Schaible:** The state cost for boarding under Section 2 has an average of \$250,000 per year or \$500,000 for the biennium, coming from the Fiscal Note and it has been the average for the Anne Carlson School for the history and the projected future. The other was for students times four times the cost:  $7 \times 28 \times 2 \times 4 = \$208,000$ .

**Rep. Monson:** You were aware that the Governor's budget did have \$500,000 increase in from what they had the last biennium?

**Senator Schaible:** Discussion was had with Jerry Coleman on that and he said that \$500,000 was probably already in there and the cost is and if they ran short they had the the opportunity to borrow from the Bank of North Dakota to be paid back at a later date.

**Rep. R. Kelsch:** The understanding was that there was money available within the Governor's recommendation and that is why we didn't feel it necessary to appropriate any money for that bill.

**Senator Schaible:** The understanding when the amendment was made was that the projected cost of what it was believed to be, it would be prudent and overruns would still be available from the Bank of North Dakota.

**Rep. Monson:** The history on this, DPI used to do everything manually and a few years ago they realized that they were reimbursing for students in Jamestown and Devils Lake who weren't qualified. The computer update helped them find the errors. This bill is to do what has been done in practice to aid these kids. If we were to pass this bill, would there be more students not getting reimbursement? This number is all over the board. If schools realize the reimbursement is available and encouragement and incentive to do that, would costs go up?

**Senator Heckaman:** It would have been beneficial for students to stay in the local area and it cost more to send them somewhere else. Because there was no reimbursement for them, it cost more to send them somewhere else. It may be a benefit to the state in the long run considering travel costs. Most facilities have a maximum capacity as is the case with the two mentioned here.

**Senator Schaible:** The potential for new students is only the districts that house these students because the districts that house these students are already eligible. The capacity for Anne Carlson is 56. The potential for more students, unless they live in that district would have to be placed with an IEP. Costs for students who live out of district

**Rep. Monson:** There is fairness, unfairness issue out there related to geographic considerations and that is the reason for this bill. DPI caught that they should not have been paid. With the \$1M estimate, and the \$500,000 it makes no difference if we put a straight line item appropriation in there or if we leave it. If we approve this bill in either version there will be service for the students and school districts will be reimbursed. If we like the bill we can pass it either way with the same fiscal effect. I prefer the House version because it pays it after the fact.

**Rep. R. Kelsch:** The quandary is pay it now or pay later. It is a guess at best. The bill has merit and I have compassion for the parents. It is a fairness issue that needs to be resolved.

**Rep. Monson:** In Section 4 there is an expiration date. We try it for two years and see what the cost will be and if it runs short put more money in to cover the cost. Special education the cost is not the factor, it is paid.

**Rep. R. Kelsch:** If the Federal government had followed through it would already be covered.

**Rep. Monson:** There are really no differences among the members.

**Senator Schaible:** It is how we pay it, in or out of district. It is not a big issue for the Senate.

**Rep. Monson:** If we agree, is there a motion? If the Senate recedes from their motion we will be back with the House version.

**Senator Schaible:** Move that the Senate recede from the Senate amendments.

**Rep. R. Kelsch:** Second

**Roll Call Vote:** 6-0-0, Motion carried. **House Carrier:** Representative R. Kelsch,  
**Senate Carrier:** Senator Schaible

**Conference Committee on HB 1074 Adjourned.**

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Appropriations – Education and Environment

Bill/Resolution No. HB 1074 as (re) engrossed

Date: 4/12/11

Roll Call Vote #: 1

- Action Taken**
- HOUSE accede to Senate amendments
  - HOUSE accede to Senate amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) HJ - 1334

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) HB 1074 was placed on the Seventh order of business on the calendar

Motion Made by: Senator Schaible Seconded by: Representative Kelsch

Representatives			Yes	No		Senators			Yes	No
Rep. Monson, Chair	✓		X			Sen. Schaible	✓		X	
Rep. Kelsch	✓		X			Sen. Luick	✓		X	
Rep. Williams	✓		X			Sen. Hechaman	✓		X	

Vote Count      Yes: 6      No: 0      Absent: 0

House Carrier \* Representative Kelsch      Senate Carrier Senator Schaible

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**HB 1074, as engrossed:** Your conference committee (Sens. Schaible, Luick, Heckaman and Reps. Monson, R. Kelsch, Williams) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1334 and place HB 1074 on the Seventh order.

Engrossed HB 1074 was placed on the Seventh order of business on the calendar.



2011 TESTIMONY

HB 1074

## Revenue Sources in Programming for Students with Disabilities

Authority	<i>Students placed for purposes other than education [NDCC 15.1-29-14]</i>	<i>School placed for education purposes out-side the school district of residence [NDCC 15.1-32-(14-15)]</i>	<i>Students programmed within school district of residence [NDCC 15.1-32-18]</i>
	<i>AGENCY PLACED</i>	<i>SCHOOL PLACED</i>	<i>SCHOOL PLACED</i>
Types	<ul style="list-style-type: none"> <li>•Court placements</li> <li>•Foster Care</li> <li>•Juvenile services</li> <li>•Deinstitutionalization</li> <li>•Institutionalization</li> </ul>	<ul style="list-style-type: none"> <li>•Low incidence programming</li> <li>•Distance related services</li> </ul>	<ul style="list-style-type: none"> <li>•Low incidence programming related services</li> </ul>
Resident district responsibility	State average cost per pupil for education	4.0 times the state average cost per pupil for education	4.0 times the state average cost per pupil for education
State responsibility	Remaining costs	Remaining costs	Remaining costs
2010-11 State Average Cost Caps	Elem            - \$8,961.30 HS                - \$9,278.23	Elem            - \$35,845.20 HS                - \$37,115.32	Elem            - \$35,845.20 HS                - \$37,115.32
State funding source	Sp Ed Contracts Appropriation Fnd Aid for State Responsible	Sp Ed Contracts Appropriation	Sp Ed Contracts Appropriation
Responsibility for residential costs	100% - Placing Agency	80% State – 20% District if necessary	80% State – 20% District if necessary

ATTACHMENT #1

# ATTACHED TESTIMONY

Attachment #2

## Testimony to the Subcommittee on Education

### North Dakota House of Representatives

Rhoda Young

January 11, 2011

Madam Chairman and members of the committee, my name is Rhoda Young of Jamestown. I am Director of Special Education for the James River Special Education Cooperative, which includes Jamestown and James River Special Education Units. I am testifying in favor of HB 1074.

Anne Carlsen Center, a private residential and educational center for children as we all know, is located in Jamestown. This facility does a fine job of caring for and educating particular kinds of students with very significant needs. The Jamestown School District has a fine working relationship with Anne Carlsen Center and we work together in many instances to educate students, whether in their facility or in the public school.

As century code is written, in section 15.1-29-14, when a student from any other district in North Dakota (outside of Jamestown) is parentally placed, the school district in which the parents reside is obligated to the average cost of education for that age student. The remainder of the cost is covered by the state. If, however, a student from Jamestown is placed voluntarily by a parent at Anne Carlson Center, the fiscal obligation to the district jumps from the average cost of education to four times the average cost of education. For School Year 2010-11, the average cost of education for an elementary student is \$8961.30; for a secondary student it is \$9278.83. Four times these amounts would be \$35,845.20 for an elementary student and \$37,115.00 for a secondary student.

Because of Anne Carlsen Center being located in Jamestown, there are parents from other parts of the state who have children placed at the Center, who move to Jamestown to live closer to their child. They obviously become residents of Jamestown. This is entirely understandable; however, it makes the Jamestown School District vulnerable to additional significantly higher costs.

The fact that Anne Carlsen Center is located in Jamestown is a positive attribute for the community and for the district. As director of the public school services/programs for students with special needs, I view it to be unfair that the Jamestown School District is responsible for this significant amount of fiscal responsibility while other districts are responsible for a lesser amount. The Jamestown School District should not be penalized for the fact that Anne Carlsen Center is located in the community of Jamestown.

I want to emphasize that until School Year 2009-2010 Jamestown School District was reimbursed at the same rate as other districts for these placements so this cost was at one time already included in the state's student contract pool of money. Four years ago, when I came to Jamestown as director, I was informed that this change would happen. Superintendent Robert Toso and I had numerous discussions with DPI concerning this change over the past four years. We were told that there had been a misinterpretation of century code. In School Year 2009-2010, DPI changed the level of reimbursement and Jamestown's obligation jumped to four times the average cost. DPI suggested that we introduce this bill in an attempt to resolve the matter.

Last year, with the change made, the result was an additional cost of \$99,056.00 for the Jamestown District. If the change had been made in 2008-09, it would have resulted in an additional \$112,448.00 to the district. We have been informed that unless century code changes, the district will continue to be reimbursed at the level of four times the average cost.

On behalf of the Jamestown School District and the James River Special Education Cooperative, I ask for your support of HB 1074.

Testimony to the Committee on Education

North Dakota Senate

Rhoda Young

March 2, 2011

Chairman Freborg and members of the committee, my name is Rhoda Young, Jamestown. I am Director of Special Education for the James River Special Education Cooperative, which includes Jamestown and James River Special Education Units.

I am testifying in favor of HB 1074.

Anne Carlson Center, a private residential and educational center for children as we all know, is located in Jamestown. This facility does a fine job of caring for and educating particular kinds of students with very significant needs. The Jamestown School District has a fine working relationship with Anne Carlson Center and we work together in many instances to educate students, whether in their facility or in the public school.

Anne Carlson Center draws many students from other districts across the state as well as out-of-state. As century code is now written in section 15.1-29-14, when a student from any other district in North Dakota (outside of Jamestown) has a student who is voluntarily placed because the student's needs are so intense that an out-of-home placement is necessary, the school district in which the parents reside, is obligated to the average cost of education for that age student. The remainder of the cost is then covered by the state. If, however, a student from Jamestown is placed voluntarily by a parent at Anne Carlson Center, the fiscal obligation to the district jumps from the average cost of education to FOUR TIMES THE AVERAGE COST OF EDUCATION. For School Year 2010-11, the average cost of education for an elementary student is \$8961.30; for a secondary student is \$9278.83. Four times these amounts would be \$35,845.20 for an elementary student and \$37,115.00 for a secondary student.

Because of Anne Carlson Center being located in Jamestown, there are parents from other parts of the state and from other states who move to Jamestown to live closer to their child. They obviously become residents of Jamestown. This is entirely understandable; however, it makes the Jamestown School District vulnerable to additional significantly higher costs.

The fact that Anne Carlson Center is located in Jamestown as a positive attribute for the community and for the district, however, as director of the public school services/programs for students with special needs, I view it to be unfair that the Jamestown School District is

responsible for this significant amount of fiscal responsibility while other districts are responsible for a lesser amount. The Jamestown School District should not be penalized for the fact that Anne Carlson Center is located in the community of Jamestown.

I want to emphasize that until School Year 2009-2010, Jamestown School District was reimbursed at the same rate as other districts for these placements so this cost was at one time already included in the state's student contract pool of money. Four years ago, when I came to Jamestown as director, I was informed that this change would happen. Superintendent Robert Toso and I had numerous discussions with DPI concerning this change over the past four years. We were told that there had been a misinterpretation of century code. In School Year 2009-10 DPI changed the level of reimbursement and Jamestown's obligation jumped to FOUR TIMES THE AVERAGE COST. DPI suggested that we introduce this bill in an attempt to resolve the matter.

Last year, with the change made, the result was in an additional cost of \$99,056.00 to the district. If the change had been made in 2008-09, it would have resulted in an additional \$112,448.00. We are told that unless century code changes, the district will continue to be responsible for four times the average cost.

On behalf of the Jamestown School District and the James River Special Education Cooperative, I ask for your support of HB 1074.

**N.D. Special Education Study Council**  
c/o WilMac Multidistrict Special Education Unit

P.O. Box 2397

Williston, ND 58802-2397

January 14, 2011

Legislative Council  
State Capitol  
600 East Boulevard  
Bismarck ND 58505-0360

Ref: House Bill No. 1074

Dear Chairman Kelsch and Committee Members:

As Chair on behalf of the North Dakota Special Education Study Council, I am writing in **support of** House Bill No. 1074. Our organization of Special Education Directors from across North **Dakota is** support of the Bill as presented.

We support equity for financial responsibility for high cost students for all school districts. **This** bill would provide equity for school districts in North Dakota that have facilities within **their** school districts who accept parentally placed students. In consideration of the change of **treating** the resident school district in the same manner as non-resident school districts when **calculating** boarding care cost for students in residential facilities, it is our opinion that this change **would** have little if any affect on requests to the Department of Public Instruction for reimbursement. There is always the possibility that the individual needs of one or two students across the **state** may require such a placement.

Thank you for taking our support into consideration and for your continued interest in these issues.

Sincerely,

Shawn Huss, Chair  
ND Special Education Study Council

#2





# Grand Forks Public Schools

*A Great Place to Grow and Learn!*

Mission Statement:

To Provide Opportunities for All Students to Develop Their Maximum Potential



*Established 1887*

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

Tori Johnson  
Director of Special Education  
Dept. Phone: 701.746.2230  
Direct Phone: 701.746.2205, Ext. 105  
Fax: 701.746.2475  
tori.johnson@gfschools.org

January 14, 2011

To Whom It May Concern:

In consideration of the change of treating resident school districts in the same manner as non-resident school districts when calculating boarding care cost for students in residential facilities, it is our opinion that this change would have little, if any affect, on the Grand Forks Public School District.

If those cases when we have students placed by the courts or social service agencies in our residential facilities, our district is not charged boarding care cost in lieu of the district's provision of educational staff to the facility. Our district works in partnership with the Ruth Meier Adolescent Center, the Center for Adolescent Alcohol Treatment, Altru Hospital Psychiatric Unit and the Stadter Center, and we provide the teaching staff at each of those sites as part of the students' educational program.

In the event of one of our students being placed in those facilities, our district is charged a nominal daily fee that is covered by the average daily cost formula. Although the average daily cost formula does not cover the cost for these programs, it is the same for all districts and not additional for the host district. We have incurred little or no additional costs for boarding care by hosting residential programs in our district. Our records indicate that Grand Forks Public Schools have incurred no costs for boarding care for any student for more than five years. The proposed change would affect our district very little.

Sincerely,

Bill Hutchison,  
Business Manger

Tori Johnson,  
Director of Special Education

#2

Student Support  
Services  
Administration

January 12, 2011



Fargo Public Schools  
Student Support Services  
415 4<sup>th</sup> Street North  
Fargo, ND 58102-4514  
701-446-1012  
Fax: 701-446-1200  
[www.fargo.k12.nd.us](http://www.fargo.k12.nd.us)

Mr. John Yates  
Director,  
Student Support Services  
701-446-1009  
.....

Ms. Barbara Christiansen  
Coordinator,  
Emotional Disorders  
701-271-6744  
.....

Ms. Roberto Harnisch  
Coordinator,  
Learning Disabilities  
701-446-1015  
.....

Ms. Karie Rage  
Coordinator,  
Mentally Handicapped  
701-446-1075  
.....

Ms. Barbara Swegarden  
Coordinator,  
ECSE  
701-446-3914  
.....

To: Whom it may concern

In consideration of the change of treating resident school district in the same manner as non-resident school districts when calculating boarding care cost for students in residential facilities it is my opinion that this change would have little if any affect on our school district.

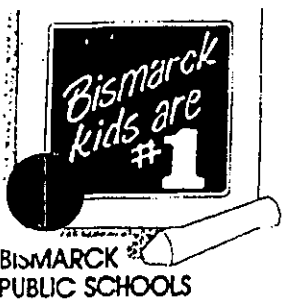
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Sincerely,

John Yates  
Director of Student Support Services  
Fargo Public Schools

#2



**BISMARCK PUBLIC  
SCHOOLS**

**Special Education**

806 North Washington  
Bismarck, North Dakota 58501  
701-323-4028  
Fax: 701-323-4027

**CINDY WILCOX**  
Director

**ROBERT SALVENDY**  
Assistant Director

**BETH JOHNSON**  
Coordinator

**PEGGY LUTON**  
Coordinator

**LINDA JENSEN**  
Coordinator

January 14, 2011

To Whom It May Concern:

I have been asked to provide information on the fiscal implications of House Bill 1074 for the Bismarck School District. In my opinion that this bill would have very little effect on our district. The vast majority of students (only two exceptions in 20 years) who receive services from Manchester House have been placed there by an agency. The district has not been assessed costs as we supply the educational staff for the program. I would not see this changing in future years, so there would be very little impact on state resources for our district.

Sincerely,

Cindy Wilcox

Director of Special Services

Bismarck Public Schools

#2

JAN 13 2011



Ralph Charley, Director  
Larry Halvorson, Business Manager

215 2nd Street SE—Minot, ND 58701  
701-857-4410—Fax—857-4413

January 12, 2011

Connie Hovendick  
Devils Lake Special Ed  
801 5th Ave SE  
Devils Lake, ND 58301-3649

I am writing per our phone conversation today regarding Bill #1074. There could be a possibility of a few students being parentally placed at the Dakota Boys Ranch in Minot each year if the Century Code is changed to allow the Minot district to claim for boarding care or education costs at the average state rate. In the past two years we have been fortunate not to have a lot of these circumstances involving the Dakota Boys Ranch, where Minot Public Schools could not claim the boarding care costs, because the Boys Ranch is located within the Minot District.

Although, I do not believe there will be a large number of students that would be effected by this change, I do believe there is potential for additional costs to the state. Souris Valley Special Services and Minot Public Schools would be in favor of this change.

Sincerely,

Handwritten signature of Larry Halvorson

Larry Halvorson, Business Manager  
Souris Valley Special Services

**Rhoda Young**

---

**From:** "Terry Tucker" <wriver@goesp.com>  
**To:** "Rhoda Young" <Rhoda.Young@sendit.nodak.edu>  
**Sent:** Monday, November 01, 2010 12:26 PM  
**Subject:** request

I currently have no students that would be effected by these changes. I have never had a parent move to Beach to be closer to their child and the stay at HOTR is now very short (less than a full school year).

Sorry I am not much help!

Terry T.

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**SECURITY REMINDER:**

DO NOT give your e-mail login and password to anyone. EduTech will NEVER ask you to provide this information. If this message is asking for personal information, it did not come from EduTech. - Vaccine2

#2

**Testimony to the  
Subcommittee on Education  
North Dakota Senate**

**Connie Hovendick  
March 2, 2011**

Chairman Freborg and members of the committee, I am honored to have the opportunity to address the financial issues of the North Dakota boarding care system for students with disabilities. I am Connie Hovendick, special education director from Lake Region Special Education Unit located at 801 5<sup>th</sup> Ave SE, Devils Lake, ND.

Lake Region Special Education Unit established New Outlooks, a group home for students with intellectual disabilities, to work closely with the classroom to provide academic and vocational programming along with independent living training in the evening for students over 15. This has been an exemplary program and students in the Lake Region Area have successfully completed this program over the years. Since this was a successful arrangement for students in the Lake Region Area, Harmony House, a second group home, was developed for students with emotional/behavior concerns. This program gives students the option of 24 hour programming which has proven successful over the years. These are unique programs for specific students with special education needs that cannot be met in their homes and local schools. This program has helped parents work with the school and community agencies to provide services to their students without them being placed out of the Lake Region.

School districts in and out of the Lake Region Special Education Unit who have placed students in these two facilities have received Boarding Care Reimbursement for 80% of their costs. North Dakota Department of Public Instruction (NDDPI) has provided this reimbursement for students receiving special education services for the past 30 years based on

Section 15.1-32-19 of the North Dakota Century Code. Devils Lake Public School District (DLPS) has been included in the schools receiving reimbursement until two years ago when they were informed that since the boarding care facility was in their school district they were no longer eligible for this reimbursement. After extensive discussion with individuals at NDDPI they agreed to continue to pay the reimbursement until July of 2011. At that time the century code would need to be changed if they were going to continue to pay DLPS.

I am in favor of House Bill 1074 which would allow Devils Lake to receive boarding care reimbursement for students with disabilities; the same as other school districts in our unit. This includes the wording "either within or without the school district of residence".

This would not be an increase in cost to the state since they have been paying this for the past 30 years. Devils Lake Public Schools received Boarding Care Reimbursements of: \$71,424 in 2008; \$77,137 in 2009; and \$88,809 in 2010. The return on this minimal investment is seen in increased independent living and competitive employment by students as they move into the adult world.

SPECIAL EDUCATION DISTRICT	Director	Institution 1	Institution 2	Institution 3	EST Residence Cost 09-10	EST Residence Cost 08-09	EST Residence Cost 07-08
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Souris Valley Special Ed Unit	Ralph Carly						
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Emmons Co Special Ed Unit	Jannelle Ferderer						
Northern Plains Special Ed Unit	Keith Gustofson						
South West Special Ed Unit	Shawn Hoffelt						
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Rural Cass Special Ed Unit	Brenda Jordan						
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TOTAL>>>					\$228,803.80	\$217,136.18	\$211,423.96

#4 HB074



Doug Johnson

---

From: Connie Hovendick [Connie.Hovendick@sendit.nodak.edu]  
Sent: Friday, January 14, 2011 3:33 PM  
To: doug.johnson@ndcel.org  
Subject: Boarding Care Costs.

I have the Boarding Care Costs for Devils Lake School District for the last three years.

6/2008 -\$71,423.96  
6/2009 -\$77,136.18  
6/2010 -\$88,803.80

This is the 80 % that Devils Lake was reimbursed for students. The last biennium was \$165,939.98. the numbers I quoted were the 20% the school paid. This was paid the last two year and is not additional dollars.

This is my last email for the week and I will try not to bother you again.

*Connie Hovendick, PhD  
Lake Region Special Education  
Director  
801 5th Ave SE  
Devils Lake, ND 58301  
662-7690*

#5 HB 1074

Student Support  
Services  
Administration



Fargo Public Schools  
Student Support Services  
415 4<sup>th</sup> Street North  
Fargo, ND 58102-4514  
701-446-1012  
Fax: 701-446-1200  
[www.fargo.k12.nd.us](http://www.fargo.k12.nd.us)

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Mr. John Yates  
Director,  
Student Support Services  
701-446-1009  
\*\*\*\*\*

Ms. Barbara Christiansen  
Coordinator,  
Emotional Disorders  
701-271-6744  
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Ms. Roberta Harnisch  
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Learning Disabilities  
701-446-1015  
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Coordinator,  
Mentally Handicapped  
701-446-1075  
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Ms. Barbara Swegarden  
Coordinator,  
ECSE  
701-446-3914  
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January 12, 2011

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Sincerely,

John Yates  
Director of Student Support Services  
Fargo Public Schools

Doug Johnson

---

**From:** Shawn Huss [shuss@wilmacsped.com]  
**Date:** Friday, January 14, 2011 3:38 PM  
**To:** 'Doug Johnson'  
**Cc:** Connie.Hovendick@sendit.nodak.edu; Rhoda Young  
**Subject:** HB 1074 Letter of Support from Study Council  
**Attachments:** hb 1074 letter of support.pdf

Hi Doug,  
I have attached the letter of support from the special education study council.

Thanks again for your time yesterday and in regards to this.

Have a nice weekend.

Shawn Huss  
Director  
WilMac Multidistrict Special Education Unit  
P.O. Box 2397  
Williston, ND 58801  
(701)-572-6757

#5

**N.D. Special Education Study Council**  
c/o WiMac Multidistrict Special Education Unit

P.O. Box 2397

Williston, ND 58802-2397

January 14, 2011

Legislative Council  
State Capitol  
600 East Boulevard  
Bismarck ND 58505-0360

Ref: House Bill No. 1074

Dear Chairman Kelsch and Committee Members:

As Chair on behalf of the North Dakota Special Education Study Council, I am writing in support of House Bill No. 1074. Our organization of Special Education Directors from across North Dakota is in support of the Bill as presented.

We support equity for financial responsibility for high cost students for all school districts. This bill would provide equity for school districts in North Dakota that have facilities within their school districts who accept parentally placed students. In consideration of the change of treating the resident school district in the same manner as non-resident school districts when calculating boarding care cost for students in residential facilities, it is our opinion that this change would have little if any affect on requests to the Department of Public Instruction for reimbursement. There is always the possibility that the individual needs of one or two students across the state may require such a placement.

Thank you for taking our support into consideration and for your continued interest in these issues.

Sincerely,



Shawn Huss, Chair  
ND Special Education Study Council

Doug Johnson

---

From: Rhoda Young [Rhoda.Young@sendit.nodak.edu]  
Sent: Friday, January 14, 2011 3:17 PM  
To: doug.johnson@ndcel.org  
Subject: reminder

Categories: Red Category

Doug,

Just a reminder of the need to consider special education staff who are hired by multidistrict special education units when addressing Alternative Teacher Compensation with the legislature. You asked that I send you a reminder.

Also, Connie Hovendick and I hope to be able to attend the HB1074 Subcommittee meeting once it is scheduled. Connie was e-mailing you the letters that we have gathered.

Again, thank you for attending yesterday's meeting and addressing legislative topics with NDSESC. It is much appreciated!

Rhoda Young, Director  
Missouri River Special Education Cooperative

#5

**TESTIMONY ON HB 1074**  
**SENATE EDUCATION COMMITTEE**  
**March 2, 2011**  
**by Jerry Coleman, School Finance**  
**701-328-4051**  
**Department of Public Instruction**

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Chairman Freborg and members of the Senate Education Committee:

For the record, my name is Jerry Coleman, Director of School Finance for the North Dakota Department of Public Instruction (DPI). I am here to speak on the implementation of the amendments in the bill.

The legislature has provided for an insurance type system limiting school district liability for the education costs for any single student. Funding is set-aside at the state level to reimburse districts for costs that exceed certain thresholds. The liability thresholds fall into three categories:

1. School placements → the school district makes the placement under NDCC 15.1-32.
  - Placements are recommended by an individualized education program team (IEP) to address the unique needs of a student with disabilities.
  - Placements can be either within district or out-of-district.
  - The resident district of the student is responsible for costs.
  - The resident district is reimbursed from state funds for education costs exceeding 4.0 times the state average cost of education.
2. Agency placements → an external party makes the placement under NDCC 15.1-29-14.
  - Placements are typically court ordered into foster care homes or facilities.
  - Subsection 1.a.(4) allows for voluntary placements by custodial parents into eligible facilities. An eligible facility is a state-operated institution state licensed child care home, facility, or program located outside the student's school district of residence defined in NDCC 25-01.2-01

(Developmental Disability) and NDCC 50-11-00.1 (Foster Care Homes for Children and Adults).

- Placements include both regular education and special education students.
  - The resident district of the custodial parent is responsible for costs.
  - The resident district is reimbursed from state funds for education costs exceeding 1.0 times the state average cost of education.
  - The state is responsible for all costs in cases where parental rights have been terminated or parents have subsequently left the state.
3. Boarding Care → room and board costs
- The state is responsible for 80% of the room and board costs paid by the district for a student with disabilities who is placed in a facility located outside of the student's school district of residence in order to receive special education services.

The amendments, if passed, are interpreted as follows:

Section 1: Voluntary placements by parents under NDCC 15.1-29-14.1.a.(4).

- The placement must be a residential placement in a facility defined under NDCC 25-01.2-01 (Developmental Disability) and NDCC 50-11-00.1 (Foster Care Homes for Children and Adults).
- The facility can be either in state or out of state.
- *The student's district of residence has no bearing on eligibility under this section.*
- Examples of placements not meeting the above criteria are:
  - Day programs where the student returns home at night.
  - Placement into drug and alcohol programs.
  - Placements into hospitals that are not licensed as adolescent child care home or facilities.

Section 2: Boarding Care Placements

- The student must be placed in a facility in order to receive special education services.
- *The student's district of residence has no bearing on eligibility under this section.*
- *The placement will be considered a school placement for purposes of education and related costs under NDCC 15.1-32.*

## Revenue Sources in Programming for Students with Disabilities

Authority	<i>Students placed for purposes other than education [NDCC 15.1-29-14]</i>	<i>School placed for education purposes out-side the school district of residence [NDCC 15.1-32-(14-15)]</i>	<i>Students programmed within school district of residence [NDCC 15.1-32-18]</i>
	<i>AGENCY PLACED</i>	<i>SCHOOL PLACED</i>	<i>SCHOOL PLACED</i>
Types	<ul style="list-style-type: none"> <li>•Court placements</li> <li>•Foster Care</li> <li>•Juvenile services</li> <li>•Deinstitutionalization</li> <li>•Institutionalization</li> </ul>	<ul style="list-style-type: none"> <li>•Low incidence programming</li> <li>•Distance related services</li> </ul>	<ul style="list-style-type: none"> <li>•Low incidence programming related services</li> </ul>
Resident district responsibility	State average cost per pupil for education	4.0 times the state average cost per pupil for education	4.0 times the state average cost per pupil for education
State responsibility	Remaining costs	Remaining costs	Remaining costs
2010-11 State Average Cost	Elem - \$8,961.30	Elem - \$35,845.20	Elem - \$35,845.20
Caps	HS - \$9,278.23	HS - \$37,115.32	HS - \$37,115.32
State funding source	Sp Ed Contracts Appropriation Fnd Aid for State Responsible	Sp Ed Contracts Appropriation	Sp Ed Contracts Appropriation
Responsibility for residential costs	100% - Placing Agency	80% State – 20% District if necessary	80% State – 20% District if necessary

#5 HB 1074



11.0099.01001  
Title.02000

Adopted by the Education Committee

February 7, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1074

Page 1, line 3, after "costs" insert "; to provide an effective date; to provide an expiration date; and to declare an emergency"

Page 2, after line 23, insert:

**"SECTION 3. EFFECTIVE DATE.** This Act becomes effective on July 1, 2011.

**SECTION 4. EXPIRATION DATE.** This Act is effective through June 30, 2013, and after that date is ineffective.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

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**CINDY WILCOX**  
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January 14, 2011

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Sincerely,

Cindy Wilcox

Director of Special Services

Bismarck Public Schools

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*Connie Hovendick, PhD  
Lake Region Special Education  
Director  
801 5th Ave SE  
Devils Lake, ND 58301  
701-662-7690*

Student Support  
Services  
Administration

January 12, 2011



Fargo Public Schools  
Student Support Services  
415 4<sup>th</sup> Street North  
Fargo, ND 58102-4514  
701-446-1012  
Fax: 701-446-1200  
[www.fargo.k12.nd.us](http://www.fargo.k12.nd.us)

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Director of Student Support Services  
Fargo Public Schools

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701-446-1009  
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Doug Johnson

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P.O. Box 2397  
Williston, ND 58801  
(701)-572-6757

**N.D. Special Education Study Council**  
c/o WilMac Multidistrict Special Education Unit

P.O. Box 2397

Williston, ND 58802-2397

January 14, 2011

Legislative Council  
State Capitol  
600 East Boulevard  
Bismarck ND 58505-0360

Ref: House Bill No. 1074

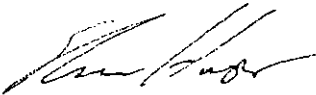
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ND Special Education Study Council

Doug Johnson

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Rhoda Young, Director  
James River Special Education Cooperative