

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2404

2005 SENATE EDUCATION

SB 2404

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2404

Senate Education Committee

Conference Committee

Hearing Date 02/02/05

Tape Number	Side A	Side B	Meter #
1	x		35-1497
1		x	660-2234
Committee Clerk Signature <i>Patty Wilkins</i>			

**Minutes :** To direct a study of education funding by the legislative council.

**Senator Freborg :** Call the meeting to order on SB 2404

Testimony in favor of the bill :

**Senator O'Connell :** introduced this bill, I had to go back and look at this and I believe this is a great idea, as you well know you put a lot of stuff on the table, sometime they apply and sometimes they don't and we are hung out to dry too. I think it is a good idea to get everything out on the table weather it is the mill levy or the foundation aid or weighted units and look at this as you know throughout your career.

**Senator Flakoll :** A study, this one mandates a study, would you like to comment on shall consider VS shall, sometimes this rubs the wrong way, when we infringe on the decision process.

**Senator O'Connell :** I think a mandate doesn't hurt, we have almost 100 thousand students now and this is the most precious commodity we have and I think sometimes a mandate doesn't hurt anything in these situations.

**Representative Metcalf** : From the greater district 24 representing ND living in 22 townships in Western Barnes County and 10 townships in N Western Ransom County. Senator O'Connell is the prime sponsor on this bill trying to find money to fund education. There have been similar resolutions in the past sessions and have not accepted for a study. Since I have been in the legislature many of my constituents have contacted me to get some relieve from the ever increasing property tax cause mainly by the needs of educating our youth. It is questionable if property tax is qualified as a fair tax? I am not that old 39 + a few yrs. I remember going through the whole farm looking at the equipment and this was all taxed. Then the legislature a few yrs down the road decided, not to tax property tax anymore, only real-estate. Then the taxes dropped drastically, then it only took two yrs and I was paying more taxes than I ever had. There is a need out there to finance education, our counties and townships, property tax is fine but if we go back to history, property was out in plain view where everyone could see it. Cattle, land, etc.. but that has changed. Much of the property now days you cannot see, the property that I would have the 100 thousand dollars in CD's someplace this is not taxable. Property in the old days meant you normally had income. Just b/c you have property now, does not mean you have income, so we need to take a real serious study on this somehow and get some relief on property tax and get it into some other areas. Nothing is predetermined in my mind to do this or that. You may have heard that I submitted a bill to increase income tax and reduce property tax. I don' think that bill will go anyplace, it would eliminate some property tax but not all a study is still necessary. There is always a nagging need for more money for teachers and other school district employees, and general school district expenses. Until this is studied, how will we know what we will need from yr. to yr. The demands of NCLB, and special needs students are increasing at a tremendous ratio.

We always hear there is a need for this and a need for that. So we react without any knowledge or plan in our mind or goal or structure in the future of where we should go. Many complex issues must be examined to allow an informed decision on an appropriate mix of funding for quality education, mandates imposed on political divisions, providing an adequate education system to support community growth and this is an important factor too. Without education, you will not have community growth, without quality education you definitely will not have community growth. This depends all through ND not just in the major urban areas, throughout our rural district too. We have an economic development again and this will not occur unless we have quality education. This would be a waste of my time and your, if I told you all the problems of financing education, there is more institutional knowledge about financing education than I can ever hope to have. We do have a serious problem and our current problem is so large and complex, it would be incorrect to make any piece mill changes, if any changes are even needed. Who knows maybe the system we have is the best system possible, but to me it looks very cumbersome. With a detailed study into financing education we should be able to uncover problem areas, and recommend correction to the next legislative assembly that will provide a system that will be well received and accepted by a great majority of our citizens. The great majority of people in my district say there needs to be something done, but what, we need money to operate. They say to put it onto income tax, sales tax, but get it off of property tax b/c this doesn't earn money, not guaranteed money.

**Senator Seymour :** Have you attempted to survey other states, looking at research at the different variables of where the taxes are and where they are going to be? Maybe a lot of models

are out there already, we just need to plug in the figures from ND. Have you envisioned that at all?

**Rep. Metcalf :** Absolutely, to me this committee shouldn't be hand tied, they should be able to go out and check out the volume of information about financing of education, but then modified for our state.

**Senator G. Lee :** What about the requirement of this study to be done, if say there is a bill that was passed is floating around, looked at financing education differently, like Rep. Haas has, for example would that satisfy your needs for this study in terms of not needing it.

**Rep. Metcalf :** Good ?. I have thought about this deeply in my mind, how can we ensure of the progress of a bill? I personally like Rep. Haas's bill, I think it has great possibilities and there are a lot of areas there where adjustments have to be made, and I won't say that I don't have any knowledge of how to finance education. In to answer your ? I would hope that we could keep this bill alive long enough to make sure that whatever happens on that that we know where it is going. I could possibly accept the fact that this bill will stop, but rather than that, I guess maybe at the extreme end, I guess possibly convert this into a resolution instead of a bill, so that if the legislative council after this bill if it were to pass, I think there is still a need for a study. There is no way in my opinion that a group of people or even this legislative assembly can come through with a solid bill or method of financing education it's going to be completely acceptable. That's going to have to be studied, even if the new bill, if it does pass, to do the job that it is intended to do.

**Sandy Clark :** I represent ND Farm Bureau, we just want to make a quick statement to go on record of supporting SB 2404 and any bill that comes before the legislature that recognizes the

state reliance on state property taxes and find an additional source of funding for education. This bill needs our support.

**Senator Flakoll :** One of the reason why there is more of reliance on property taxes it is even less than the great amt. of money from the state is the exemptions which exist, would you be in support of removing exemptions that preclude that state from having the necessary millions of dollars for K-12 education?

**Sandy Clark :** I am aware of bills out there to actually take a look at all the exemptions. We are not opposed to a study that will analyze exemptions as long as one looks at all exemptions in all areas, is not just singling out agriculture for what ever reason. I think the exemptions that are in place for a lot of industries are beneficial. I am not sure that's the bill that we are here to debate today. I think our policy says that we don't like tax increases but if there is going to be a tax increase, we favor an increase in income tax. That has been our policy for a long time.

**Senator Taylor :** Has FB ever collected any data as our economy changes in ND agriculture is still predominant., has the FB ever thought of taking in data to see how much, the overall tax picture especially in property taxes, are farmers and ranchers VS industry VS residential, and those kinds of things, if not I think it would be very important to undertake.

**Sandy Clark :** Yes we have and working on this on and off for the last couple of yrs. Senator O'Connell was helping us with getting some information as with other Senators and Reps. to be able to get that information, it is a very complicated study, it takes time and I am hoping that we can continue that, unfortunately I don't have a statistical background so that is where some our hang-up is coming from. It does need to be pursued and I am hoping we can do it.

**Testimony in opposition of the bill :**

**Senator Freborg :** Closed the hearing on **SB 2404**

**Senator Freborg opened the hearing later on the same day.**

**Senator Freborg :** We have no guarantee that Rep. Haas bill will be turned into a study resolution even though there is a lot of talk about it. We should keep that in mind when we consider this bill. I don't think that we can assume that will automatically happen. If we want some kind of a study we perhaps should consider keeping this alive. I am not sure how far it will get when it gets over there but I would like to believe that they would be wise to study this radical change before they implement it. Any ideas?

**Senator Erbele :** Having been through a couple of interim's and various studies, I think this would be one of the more legitimate studies that we could study.

**Senator Freborg :** It does say council shall study, please think about that before anyone becomes hasty.

**Senator Flakoll :** In lieu of some of the conversation in this committee and House committee, after committee and the like, when they talk about on line 5 method, to include but not limited to that those would be considerations that we look at possibly. Such as it being looked at by Rep. Haas, these are ones that we typically talked about, not saying that it is limited to that, but that it would include discussion on those three topics so that they are covered.

**Senator Freborg :** Just a clarification, I am not necessary opposed to the word shall. Only that you all should consider that is what it says. Do you have any specific ideas Senator Flakoll?

**Senator Flakoll :** Again going back to the shall VS shall consider, sometimes the heartburn that exists by those that are on the Legislative Council, about taking it out of their hands a little bit



with a study, could this be rolled in with one or two other things? I am not sure, I think the shall consider, has a greater chance of passage, I am quite certain of that.

**Senator Freborg :** Getting to the point of the property tax business that we are going to have to say shall pretty soon. I just don't want this to happen without a study.

**Senator Taylor :** Along the same lines, shall is a selling point for me. If the votes are there then we have the study, then there may be other opportunities to do a shall consider. At least in my district it is extremely important.

**Senator Freborg :** Do you wish to include some language, Senator Flakoll.

**Senator Flakoll :** I would but I am not coming up with something, but to stay within the lines that I consider that the three major points of alternatives, income tax, sales tax and exemptions.

That that be part of the discussion, to included but certainly not limited to. That is what I am looking at to at least sharpen the focus. I think they should all be on the table

**Senator Freborg :** Do you believe Senator Flakoll that we should remove the word shall.

**Senator Flakoll :** I am looking that I would vote for it here, on the floor and also on LC, having said that I want to make sure that it has a chance of passing. The message I want to send to the committee is that it should be shall.

**Senator Freborg :** I am sure we can get it passed, and if nothing is said, most won't know it says shall.

**Senator Seymour :** The author of the bill, talked about the history of working with this and putting this package together that this should be shall, that with this time of after the groups that reviewed it didn't a good priority and now he wanted more of a priority.

**Senator Freborg :** I doubt that it will be in much conflict with Rep. Haas bill, he did sign onto this one.

**Senator Taylor :** Don't you think the council will do that without us putting that in the language, sales, income, exemptions and other things. I wonder if it is redundant to put that in there.

**Senator Freborg :** No body likes to talk exemptions.

**Senator Erbele :** As long as we are talking shall, what about in subsection 2, the council shall prepare legislation, do they have too?

**Senator Freborg :** It says so.

**Senator Erbele :** Is this a point that is forth coming, I would leave shall in subsection 1 but softening the requirement that we have to have some legislation as a result of this. There might not be anything.

**Senator Freborg :** Good point.

**Senator Flakoll :** Could we insert the word appropriate, and if or when appropriation that it enhances.

**Senator Freborg :** The out come of all interim committee meetings if appropriate they prepare a bill draft. We could cut it off right after the word shall and pick it up with the word report.

**Senator Flakoll** made a motion to move the amendments before the committee, on pg 1 line 5 after the words method insert to include but not limited to sales tax, income tax, and exemptions, and of course renumber accordingly.

**Senator Erbele** second the motion.

**Senator G. Lee :** The only thing in numbered section 2 there if we are going to change that should we include it in the same amendment instead of going through this exercise twice. I think it should be changed.

**Senator Seymour :** I agree with **Senator G. Lee** that we could do it all at once.

**Senator Flakoll :** The reason I didn't is b/c I wasn't sure that I would have any fans of this amendment and thought to take one step at a time. So while we are talking, Dirk can get the other one done.

**Dirk (intern)** I can if you want the one **Senator Freborg** did, and I need some direction.

**Senator Freborg :** Lets complete the motion before us.

Hearing no other discussion roll call was taken, **vote: 6-0-0**

**Senator G. Lee :** I think we should amend that second section, similar to what you had suggested the LC shall prepare and report it's finding and recommendations, rather than the more restrictive verbiage in there.

**Senator Freborg :** What would you take out Senator Lee?

**Senator G. Lee :** I would just at the end of where it says shall prepare its findings, report its finding and recommendation, include after prepare, shall report its finding and recommendation.

**Senator Freborg :** Do you have that Dirk

**Senator G. Lee** made the motion to make that change.

**Senator Flakoll** second the motion.

**Senator Freborg :** any more discussion?

**None**

Hearing none the roll was taken to adopt the Lee amendment to SB 2404, **vote : 6-0-0**

Page 10  
Senate Education Committee  
Bill/Resolution Number SB 2404  
Hearing Date 02/02/05

**Senator Flakoll** moved a Do Pass as amended to SB 2404

**Senator Erbele** second the motion.

Hearing no other discussion the roll was taken, **vote: 6-0-0**

**Senator Taylor** will carry this bill.

**meeting adjourned.**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2404

Page 1, line 5, after "methods" insert ", to include but not limited to sales tax, income tax and exemptions,"

Renumber accordingly



PROPOSED AMENDMENTS TO SENATE BILL NO. 2404

Page 1, line 5, after "methods" insert ", to include but not limited to sales tax, income tax and exemptions,"

Page 1, line 7, remove "prepare legislation that enhances funding for"

Page 1, remove line 8

Page 1, line 9, remove "property taxes and"

Re-number accordingly







**REPORT OF STANDING COMMITTEE**

**SB 2404: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2404 was placed on the Sixth order on the calendar.

Page 1, line 5, after "methods" insert ", including sales tax, income tax, and tax exemptions,"

Page 1, line 7, remove "prepare legislation that enhances funding for"

Page 1, remove line 8

Page 1, line 9, remove "property taxes and" and replace "the" with "any"

Page 1, line 10, replace "by this section" with "to implement the recommendations"

Renumber accordingly

2005 HOUSE EDUCATION

SB 2404

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2404

House Education Committee

Conference Committee

Hearing Date **8 March 2005**

Tape Number	Side A	Side B	Meter #
1	X		800 - 2700
Committee Clerk Signature <i>Jan Prindle</i>			

Minutes:

**Chairman Kelsch opened the hearing of SB 2404.**

**Senator David O'Connell, District 6,** introduced the bill. This is something I do believe in and you know better than anybody that we have to start looking at every avenue possible for education and the interim studies get to be harder and harder every session. I believe you have already have one through the delayed bill committee where there will be an interim study that will have to be three alternatives. The interim committee will have to come up with three alternatives to funding education. That committee should be an interesting one to serve on. I miss serving on the Education Committee. It's really a challenge.

Basically what you see in SB 2404 is the complete bill.

**Rep. Haas:** How did this change from the original?

**Sen. O'Connell:** I don't have the original bill.

**Rep. Hanson:** What do you know about the lawsuit? We might not need this if the lawsuit is in progress prior to the start of this study.

**Sen. O'Connell:** That could happen real easy too. My concern is that I have never been concerned about the lawsuit. I always thought we were doing what was right and straight forth. With Judge Newman resigning as of the 14th of this month and he wrote the opinion, I'm starting to look at it a little closer now.

**Chairman Kelsch:** In the article that said he was leaving he said that was probably one of his most erroneous decisions that he made.

**Rep. Herbel:** Don't you think that if we do this study and the lawsuit does prevail that it would help give us some guidelines if we can up with any kind of a solution that is different than HB 1512 which everyone objected to in the Senate. It will give us an opportunity to at least something written.

**Sen. O'Connell:** Yes, and I think the lawsuit will take at least a couple of years and if we can have something in place and at least show the court that we are working on something that would give us a tremendous advantage. The rumor that all of hear is that we need a couple hundred million dollars we know that isn't possible.

**Rep. Herbel:** However if the courts rule it, it will be possible and we will do it.

**Chairman Kelsch:** In Kansas the court ruled January 5 that their funding formula was unconstitutional and they had to come up with \$800 million by April. We may get a study in. We may not get a study in. It depends on how long the case takes. It's not a bad idea to have it on the books anyway.

**Sen. O'Connell:** Personally I don't believe the courts should have their nose into our business. This is our division of government and that's the way it should be.

**Rep. Ralph Metcalf, District 24,** testified in favor of the bill. **(Testimony attached.)**

**Rep. Herbel:** You indicated you have been looking at this issue since 1999 and I have respect for your wisdom. Have you looked at some options to replace the property tax that you think would be workable.

**Rep. Metcalf:** I did have a bill, HB 1513, that put on a 25% increase in income tax with a complete offset on property tax. There was a methodology to balance the property rich and the property poor. That is what I consider a piecemeal correction rather than looking at the whole situation and get it done right to well serve all the people.

**Mary Wahl, ND Council of Educational Leaders,** testified in favor of the bill. We support this study and urge it be focused on a continuation of a kind of state commitment that is contained in HB 1512. We have suggested to Representatives Haas and Herbel that the school finance discussion will never be the same following their bold proposal. We hope that is true. We are especially interested in the provision in this bill to study tax exemptions. I believe Rep. Haas said in testimony on the floor this amounts to \$539 million a year not far from the \$570 million total amount to be raised in 1512. We think this is a good study. Maybe it's not the vehicle that will ultimately be chosen but we hope we can go forward from where the discussion has been has been blocked upon 1512.

**Rep. Mueller:** Do we not have a study along these lines that does in the best way it can reference 1512?

**Wahl:** I'm not familiar with that.

**Chairman Kelsch:** And I'm not sure what study Sen. O'Connell was talking about with the choices.

**Rep. Haas:** It's a study resolution that the Senate prepared the day after they stomped on 1512. If you read the provisions of the resolution it puts in its requirements that the study will almost parallel the provisions of 1512.

**Rep. Herbel:** In fact in this resolution they even identify the dollar amount of property tax that you would be looking at in terms of replacement. It puts a couple of different scenarios in that we would be looking at. It actually got to the specifics of it.

**Rep. Haas:** It requires three bill drafts that is what Sen. O'Connell was talking about. One was replacement of property tax at \$150 million, one at \$300 million, and one at \$600 million. It will be here.

**Joe Westby, NDEA,** testified in support of the bill. It seems as though one thing we are good at in ND is having studies on education and education finance. We've been doing this for as long as I've been around here. Back in 1986-88 we had a rather study of funding mechanisms. We commissioned a consultant, Gary Hochlanger and Associates from CA, to come in and study our finance system. He did that. He said the formula at that time was pretty sound just severely underfunded. That really hasn't changed much over the years. We've tinkered with the formula changing various things but it's still underfunded. It has remained that way throughout.

If we can find a better formula, more equity, more adequacy, more equitable distribution of how we find the revenue, I think we ought to do that. We supported 1512 in the Senate and I don't think they seriously considered it for very long. We have long supported movement off the property tax and on to sales or income or some combination thereof. We think there needs to be

a three-legged stool, if you will, in terms of property, sales and income tax to support education. That's where we stand on the issue and would support a study. Hopefully something will come out of another study. We're long on studies but short on action in solving the funding problems for education.

**Chairman Kelsch closed the hearing of SB 2404.** She discussed how the bill was changed from its original form. Does any one want to work on this any further? Do we want to hang on to it? What are the wishes of the Committee?

**Rep. Mueller: I move a Do Pass.**

**Rep. Solberg: I second.**

**Rep. Mueller:** I'm pleased there is another bill coming. I think the more of these kinds of things we put into the mix the more difficult it will be for Legislative Council not to do something meaningful in looking at school funding.

**A roll call vote was taken.**

**Yes: 13 No: 0 Absent: 1 (Hawken)**

Rep. Solberg will carry the bill.



Date: 8 Mar 05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2404

House Education Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Mueller Seconded By Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep. Hanson	✓	
Vice Chairman Johnson	✓		Rep. Hunskor	✓	
Rep. Haas	✓		Rep. Mueller	✓	
Rep. Hawken	0		Rep. Solberg	✓	
Rep. Herbel	✓				
Rep. Horter	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte	✓				
Rep. Wall	✓				

Total (Yes) 13 No 0

Absent 0 1 (Hawken)

Floor Assignment Solberg

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

**REPORT OF STANDING COMMITTEE (410)**  
March 8, 2005 10:51 a.m.

**Module No: HR-42-4376**  
**Carrier: Solberg**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2404, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2404 was placed on the Fourteenth order on the calendar.**

2005 TESTIMONY

SB 2404

TESTIMONY SUPPORTING SB 2404  
HOUSE POLITICAL SUBDIVISIONS COMMITTEE  
FEBRUARY 2, 2005

Good morning Chairman Freborg and members of the Senate Education Committee. I am Representative Ralph Metcalf from the greater District 24 representing North Dakotans living in 22 townships in western Barnes County and 10 townships in northwestern Ransom County.

Although Senator O'Connell is the prime sponsor of this bill, I have been directly involved in this major problem of finding the proper source of funding for K-12 education since my first session in 1999. At that time I sponsored a resolution to study this problem which passed with little problem. However, it seemed that the legislative council had studies of more importance to authorize.

Ever since I have been in the legislature, many, many, many of my constituents have contacted me to get some relief from the ever increasing property tax caused mainly by the needs of educating our youth. As you well know, it is questionable if property tax can qualify as a fair tax.

In addition to the source of funding being suspect, there is always the nagging need for more money for teachers and other school district employees. The demands of NCLB and special needs students are increasing at an endless ratio. As you all well know many complex issues must be examined to allow an informed decision on the appropriate mix of funding for quality education, mandates imposed on political subdivisions, providing an adequate education system to support community growth and economic development.

It would be a waste of my time and yours to have me stand up here and tell you all the problems of financing education. In the first place, I would probably miss most of them. I do feel that we have a serious problem and our current system is so large and complex it would be

incorrect to try to make any piecemeal changes if any changes are even needed. With a detailed study into financing education we should be able to uncover problem areas and recommend corrections to the next legislative assembly that will provide a system that will be well received and accepted by the great majority of our citizens.

Chairman Freborg, this concludes my testimony and I will gladly attempt to answer any questions you or your committee may have.

TESTIMONY SUPPORTING SB 2404  
HOUSE POLITICAL SUBDIVISIONS COMMITTEE  
MARCH 8, 2005

Good morning Madam Chair and members of the House Education Committee. I am Representative Ralph Metcalf from the greater District 24 representing North Dakotans living in 22 townships in western Barnes County and 10 townships in northwestern Ransom County.

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incorrect to try to make any piecemeal changes if any changes are even needed. With a detailed study into financing education we should be able to uncover problem areas and recommend corrections to the next legislative assembly that will provide a system that will be well received and accepted by the great majority of our citizens.

Madam Chair, this concludes my testimony and I will gladly attempt to answer any questions you or your committee may have.