

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

2388

2007 SENATE EDUCATION

SB 2388

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2388

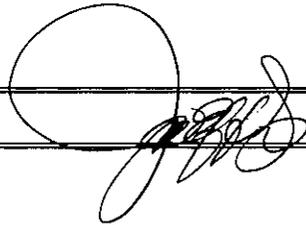
Senate Education Committee

Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: 2130

Committee Clerk Signature



Minutes:

Chairman Freborg opened the hearing on SB 2388, a bill to provide an appropriation for school districts that receive a reduction in state aid. All members were present.

Senator O'Connell introduced the bill. The superintendent in Glenburn was sick and there was a mix up in the way the mills were put into the auditor. The school district from Glenburn originally approached Tom Decker who helped prepare the bill and put together the numbers. At first it was \$54,000 but he was able to cut it in half after some research. The money would be counted as foundation aid. He was hoping Tom Decker would be down here this morning. Senator Flakoll asked if it is his intent the money would be subject to the 70% rule or outside of that.

Senator O'Connell said he assumes yes since it would be foundation aid.

Senator Taylor confirmed the superintendent was sick and was unable to watch the valuations.

Senator O'Connell said the superintendent got sick and the principal took his place, brand new in the position and the mills actually fell.

Representative Froseth testified in favor of the bill. Glenburn is in his district. He knows some mistakes and oversights can happen. They have had a bill in their Finance and Tax

Committee with the Surrey school district with a similar problem with calculating the mill levy

and that correction was \$100,000. The weather is bad this morning; he expected the folks from Glenburn would be here.

Doug Johnson, North Dakota Council of Educational Leaders, testified in favor of the bill. This occasionally happens when a rookie comes in. In this case, the individual that did the calculations was not familiar with the process and made a calculation error. It is similar to what happened with TGU last session because they could not increase their mill levy due to the consolidation and they had maxed out 18%. He would recommend a do pass and help out Glenburn.

Senator Bakke asked if the intent is to put this into SB 2200 or just give them a payment.

Mr. Johnson said he is not exactly sure; his understanding from looking at the bill is it would be a straight payment.

Chairman Freborg closed the hearing on SB 2388.

Senator Flakoll moved a Do Pass and Rerefer to Appropriations on SB 2388. Senator Taylor seconded the motion. The motion passed 5-0-0. Senator Gary Lee will carry the bill.



**REPORT OF STANDING COMMITTEE**

**SB 2388: Education Committee (Sen. Freborg, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2388 was rereferred to the Appropriations Committee.**

2007 SENATE APPROPRIATIONS

SB 2388

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2388

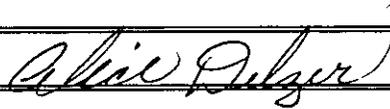
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-07-09

Recorder Job Number: unknown

Committee Clerk Signature



Minutes:

**Chairman Holmberg** opened the hearing on SB 2388 at 9:10 am on February 7, 2007 regarding Appropriation for School District that receive educational aid.

**Senator David P. O'Connell, District 6, Bottineau**, as cosponsor of the bill gave oral testimony in support of SB 2388. The bill is mainly a bill that provides reimbursement to eligible school districts that received reduced amounts of state aid for the biennium beginning July 1, 2007 and ending June 30, 2009. For the purposes of this section, an eligible school district is one that received a reduction in state aid during the 2005-07 biennium because the district's general fund levy fell below one hundred forty mills as the result of an accounting oversight.

**Chairman Holmberg** had questions regarding the general fund and asking Department of Public Instruction (DPI) about funding concerning this bill.

**Senator Robinson** made comments about his time when he served as a high school principal and the friction that sometimes occurred within the leadership.

**Senator Christmann** asked if patrons in that district got a tax break because of accounting oversight. He also had questions regarding the mill rate for that district.

**Jerry Coleman, Assistant Director of School Finance DPI** gave oral testimony concerning the bill.

**Chairman Holmberg** stated we need to have the appropriate person supply information regarding the school districts that are anticipating payment back to the school. He asked for the Glenburn's school district information.

**Senator Mathern** stated that there should be a system in place to correct mistakes like this rather than have a bill brought up in legislature. It was explained to him by Jerry Coleman why that could not be done in this case by their office. It needed legislative action.

**Chairman Holmberg** stated they would have Roxanne from Legislative Council prepare an amendment. There was further discussion regarding another bill, SB 2200, education committee, SB 2013, Glenburn information on Holmberg's desk, and all the committee members wanted copies of this. It will be provided.

The hearing on SB 2388 was closed.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2388

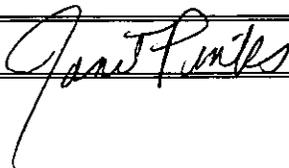
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02/08/07

Recorder Job Number: 3103

Committee Clerk Signature



Minutes:

**Chairman Holmberg** opened the hearing on SB 2388.

**Senator Mathern** moved a do pass on the amendment 0203, **Senator Bowman** seconded.

An oral vote was taken resulting in a do pass on the amendment.

**Senator Mathern** moved to add an emergency clause to the amendment, **Senator Wardner** seconded. An oral vote was taken to add the emergency clause resulting in a unanimous vote. The motion carried.

**Senator Bowman** moved a DO PASS as amended, **Senator Tallackson** seconded. A roll call vote was taken resulting in 11 yes, 3 no, 0 absent. The motion carried. **Senator Seymour** will carry the amendment.

**Chairman Holmberg** closed the hearing on SB 2388.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2388

Page 1, line after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 28 of chapter 167 of the 2005 Session Laws, relating to the contingent distribution of state school aid payments.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 28 of chapter 167 of the 2005 Session Laws is amended and reenacted as follows:

**SECTION 28. CONTINGENCY.** If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in House Bill No. 1013, as approved by the fifty-ninth legislative assembly, remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2005, and ending June 30, 2007, and after the superintendent of public instruction has fulfilled any directives contained in section 27 of this Act, the superintendent shall distribute the remaining moneys as follows:

1. The superintendent of public instruction shall use the first \$25,748, or so much of that amount as may be necessary, for the purpose of reimbursing eligible school districts that received reduced amounts of state aid. For the purposes of this subsection, an eligible school district is one that received a reduction in state aid during the 2005-07 biennium because the district's general fund levy fell below one hundred forty mills as the result of an accounting oversight.
2. The superintendent of public instruction shall use the ~~first~~ next \$450,000, or so much of that amount as may be necessary, to provide additional payments to school districts serving English language learners in accordance with section 15.1-27-12.
- ~~2-~~ 3. The superintendent of public instruction shall use the next \$1,000,000, or so much of that amount as may be necessary, for the purpose of providing additional per student payments to school districts participating in eligible educational associations in accordance with section 32 of this Act.
- ~~3-~~ 4. The superintendent of public instruction shall use the remainder of the moneys to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district."

Renumber accordingly

*JH*  
2-8-7

PROPOSED AMENDMENTS TO SENATE BILL NO. 2388

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 28 of chapter 167 of the 2005 Session Laws, relating to the contingent distribution of state school aid payments; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 28 of chapter 167 of the 2005 Session Laws is amended and reenacted as follows:

**SECTION 28. CONTINGENCY.** If any moneys appropriated for per student payments and transportation payments in the grants - state school aid line item in House Bill No. 1013, as approved by the fifty-ninth legislative assembly, remain after payment of all statutory obligations for per student and transportation payments during the biennium beginning July 1, 2005, and ending June 30, 2007, and after the superintendent of public instruction has fulfilled any directives contained in section 27 of this Act, the superintendent shall distribute the remaining moneys as follows:

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- ~~3-~~ 4. The superintendent of public instruction shall use the remainder of the moneys to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date:  
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2388

Senate Appropriations Committee

Check here for Conference Committee

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

Action Taken \_\_\_\_\_

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm			Senator Tim Mathern	✓	
Senator Randel Christmann			Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson		
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 11 No 3

Absent \_\_\_\_\_

Floor Assignment A. Flakoll

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

*Seymour carry amend*

**REPORT OF STANDING COMMITTEE**

**SB 2388: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2388 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 28 of chapter 167 of the 2005 Session Laws, relating to the contingent distribution of state school aid payments; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

2007 HOUSE EDUCATION

SB 2388

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2388**

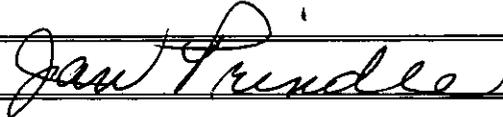
## House Education Committee

Check here for Conference Committee

Hearing Date: **28 February 2007**

Recorder Job Number: **4091**

Committee Clerk Signature



Minutes:

**Chairman Kelsch opened the hearing of SB 2388.**

**Representative Glen Froseth, District 6, introduced the bill.** This bill pertains to an oversight by the Glenburne School District. Its purpose is to correct an error in their budgeting process during the 2005-07 biennium in the amount of \$25,748. I'm not sure how that error happened. Because of the weather there is no one from that district here. Glenburne does get some federal dollars because they have students from Minot Air Force Base. I believe this money is in the last biennium budget.

**Chairman Kelsch:** It is. When we appropriate the money for PPP for foundation aid, the DPI has gotten very good in estimating the distribution but there is usually some left over. When we have special projects for which we cannot get general fund dollars, we will prioritize projects to come out of the leftover dollars. This bill would set this as a priority. It does have an emergency clause on it so it would go out with the distribution that was done this biennium. It's not new money. DPI would pay this out first, then the ELL money, the JPA money, and whatever is left after that they pay out in ADM. This is not the first time we have seen one of these error/makeup bills. We are sympathetic to those errors.

**Representative Herbel:** Does the ELL fall into the same category?

**Chairman Kelsch:** We gave them about \$350,000 and I think they wanted \$800,000 so we said we don't have the general fund dollars to do that but we will give you some of the contingency dollars. They got the \$350,000 distribution and will get the additional \$450,000 in the last distribution. This would move in front of the ELL money.

**Senator David O'Connell, District 6, testified in favor of the bill. (Testimony Attached.)** I can't add a thing to what you just said. I wish that every chairman that I testified before would carry the bill for me like this. You did an excellent job and there is nothing I can add.

**Representative Mueller:** Can you describe a bit what the circumstance was in Glenburne that created this issue.

**Senator O'Connell:** The superintendent had an illness and the principal took over the calculations and there was confusion with the mills when the evaluation went up. It dropped below the mil levy deduct and they were penalized.

**Representative Rod Froelich, District 31, testified in favor of the bill.** He distributed an amendment that would include a distribution to the Selfridge School District. He introduced Jim Gross to go into the details of the problem they have.

**Jim Gross, superintendent of Selfridge School District, testified in favor of the bill.** The population of our school has changed. Nineteen years ago we had about 5% Native Americans. Now we are 95% Native American students. A lot of the land in our district is not taxable. We are also designated as a "small but necessary school." What has happened is the year before I came there they had budgeted \$285,000 for impact aid from the federal government. When the aid actually came it came in four payments which is not usual. When the total for the year was received we were \$150,732 over what we had budged. As a result we were \$128,076 over the carry amount for our school. We deficit spent about \$300,000 and we are expecting this year to be about \$300,000 to \$350,000. That's why we are asking for

this. We had no idea that we were going to get this money. When we asked why this money came, they said it was back pay for a year. This was money we received not from the state but from the federal government. Our board members had budgeted what we thought we were going to get and that's what it should have been. In 2003/4, there were 100 students that qualified for impact aid. We got \$294,344. In 2004/5 we had 96 students and we got \$319,136. So last year we had 41 students and received \$426,000. The board had no idea that they were going to receive this. What the board had projected as an ending balance would have been very close. It also affected our net entitlement from the state. We were entitled \$280,251 so with the EFT (excess fund balance) we were deducted \$128,076 and we had a cross border and we didn't get that bill until after December. The actual we are getting from the state \$80,095 for a total this year. Our tax base is 183.46 mil. We are again expecting \$250,000 deficit spending. I would hope that you would look at this amendment favorably. We didn't have any control over this.

**Representative Haas:** Did you say you have deficit spent for two years in a row? What was your ending fund balance when you started deficit spending? You have been penalized for deficit spending for several years.

**Gross:** A little over \$600,000. We've been penalized for two years and a lot had to do with the impact aid.

**Representative Haas:** What will your projected ending fund balance be this year?

**Gross:** We are looking at approximately \$250,000.

**Representative Haas:** Will you be penalized again this year.

**Gross:** No.

**Representative Herbel:** Did bring this in to the senate too?

**Gross:** No, this is the first time. I had brought it to our senator when I noticed it, but he said this would be the best way—to attach this to this bill, if possible.

**Representative Mueller:** You received an extra \$150,732 in extra impact aid. What you are asking with this amendment is to make up for the lost money that you would have received had you not had the interim fund balance problem to the tune of \$128,076?

**Gross:** That's correct.

**Representative Mueller:** I'll be the devil's advocate and say if you got \$150,732 you more than made up for \$128,076. You got it up front from impact aid piece. Is that not true?

**Gross:** It is, but we didn't receive that amount from the state.

**Representative Haas:** So the 128,076 was actually the EFB deduct?

**Gross:** That's correct.

**Representative Wall:** According to my calculation you are up \$22,000 from where you thought you would be. Correct?

**Gross:** For that year that's correct; but for this year they have projected the \$128,000 that we didn't get this year. We are looking at a reduction in impact aid because we had a reduction in students.

**Representative Mueller:** Are you in line to lose \$128,076 once or twice?

**Gross:** No, we shouldn't this year.

**Representative Mueller:** You only lost one year so the \$157,032 and the \$128,076 are the numbers that clash with each other. There isn't any other set of numbers?

**Gross:** That \$128,076 is about 12% of our budget. We only get about \$225.000 from our taxes because we have a lot of land but no evaluation.

**Representative Haas:** Which fiscal year was your EFB too high?

**Gross:** 05/06

**Representative Haas:** Was that the same year you received that excess impact aid?

**Gross:** That's correct.

**Chairman Kelsch closed the hearing on SB 2388.**

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2388**

### House Education Committee

Check here for Conference Committee

Hearing Date: **28 Feb 07**

Recorder Job Number: **4138**

Committee Clerk Signature

*Jan Prindle*

Minutes:

**Chairman Kelsch opened discussion of SB 2388. Jerry Coleman from DPI was invited to discuss the Selfridge School amendment with the Committee.**

**Chairman Kelsch:** Let's talk about the contingency dollars. Where are we projected to end up? What is your best guess? We are in March tomorrow and you distribute those dollars after July 1?

**Coleman:** We will distribute them before the end of the biennium—June. We have a very good idea that we will be at \$12 million. A lot of time the estimates work against each other. You win some and you lose some. This time they all went in the same direction. We had some really huge increases in taxable valuations across the state. The projection errors did not counterbalance each other; they all went in the same direction. That's what we are expecting and using right now. We have a lot of contingency.

**Representative Haas:** With Selfridge—have they been penalized for EFB any other time? He said when he started they had a budget balance of \$600,000 and now they have been deficit spending for three years. Would it be possible for us to know at what point was their EFB above the permissible level. When were they penalized, when weren't they penalized?

**Coleman:** I'm not 100% certain but I think this is the second year they were impacted by the EFB deduct. I'll have to check that for sure, but I think this is the second year.

**Chairman Kelsch:** My concern here is that we are taking ourselves down this slippery slope that I'm not sure that we want to continue.

**Representative Mueller:** What I heard from the superintendent is that he has only been over the mark one time with the interim fund. Very frankly I have a lot of trouble giving him \$128,000 to replace \$152,000 that he received but I think there may be another issue here. When we are doing our base line funding in SB 2200, he may have been referencing that. If he loses some of that base line funding he gets impacted down the road quite a bit.

**Coleman:** I will have to check that but it seems to me it's been two years in a row.

**Chairman Kelsch:** It was hard for me to follow because the dots weren't being connected. My concern was you received? You needed?

**Vice Chairman Meier:** What is the PPP in Selfridge? The cost of education per student?

**Representative Haas:** It's in the school facts book that was brought down here for us. If they were penalized more than one year with an ending fund balance deduct then they cannot manage the cash flow.

**Coleman:** It was their second year and it will impact their base line funding.

**Representative Mueller:** How severely?

**Coleman:** It would be that amount.

**Representative Haas:** The other point is he said he got federal payment in June. By the end of June he is closing out that fiscal year. If he was managing his cash flow properly he could have easily credited that into the next fiscal year and not had an impact and not raising his ending fund balance.

**Coleman:** In generally accepted accounting principles that wouldn't happen.

**Representative Johnson:** Didn't he say it was a surprise to get it? He was not sure he was going to get the impact money.

**Coleman:** I just know that impact aid is notorious for not having a steady payment schedule.

**Chairman Kelsch:** We just really don't want to do this. When we redistribute the balance of the \$12 million they will share in that.

**Coleman:** That distribution will be about \$100 to \$120 per student.

**Representative Mueller:** I think the real issue for him even though he didn't say it, will be the base line funding thing. Is there any way to fix that for him without sending out \$128,000?

**Coleman:** I'm not sure how he will turn out under that new formula. Another problem they have is that Fort Yates built a new school and lost about ½ of their kids. If we use this year's dollars they will be short that \$128,000 in the new formula. Whether they are impacted by that I don't know. They would have to be a 2% district. They are probably not a high valuation district so maybe the formula will treat them well.

**Chairman Kelsch:** Do you want to take this up or think about it until next week.

**Coleman:** I'll run some more numbers.

**Discussion closed.**

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2388**

## House Education Committee

Check here for Conference Committee

Hearing Date: **7 March 2007**

Recorder Job Number: **4521**

Committee Clerk Signature



Minutes:

**Chairman Kelsch opened discussion of SB 2388.**

**Representative Mueller:** This is the bill that had a correction for Glenburn for a glitch in the system and that part of the bill is pretty solid. The amendment that was introduced to us is another part of this issue and needs discussion. This is the \$128.0 to the folks down in Selfridge because of a problem they had by getting late funding from the government, a reservation type system. It messed them up and put them over the mark in terms of their ending fund balance and the folks at Selfridge wanted us to return the \$128.0. Questions from the Committee had to do with how can you really justify doing \$128.0 by already having had it replaced by \$150.+ that came from the federal government. My own sense of this is I'm not sure I can support that idea. The other complicating factor had to do with what it does, and this is thinking down the road to when 2200 is going to be the law of the land, with the base funding component that makes some difference. After visiting with Jerry Coleman the bottom line is that it could have some small effect on his base line which may result in about a \$9.0 increase as we move forward if SB 2200 gets in to place. The decision if we want to deal with the amendment brought in from the folks from the Selfridge area it would be a \$128.0 hit to the general fund, it would also put money in his base line to the extent that he would pick up another \$9.0 as we move forward. The question that comes to my mind is well you already

got \$150.0 for \$128.0 and you have a couple of years of \$9.0 left here. It gets a little involved but that's the crux and the basis of what we are dealing with here.

**Chairman Kelsch:** As policy makers there are decisions that we have to make and we have to make them based on does it make good sense and especially when it comes to using the money that could be line item money. My concern is that we are heading down a slippery slope. Every session we have one of these where, "O gosh, we screwed up. Now can we go back and get the money." In the situation of Glenburn I have a tendency to be more sympathetic and the reason being that we know that superintendent was ill and there were some errors made. Technically they shouldn't have been punished and they were. My concern is, are we going to see these session after session after session. If we start and open the floodgates, what's going to happen? As an aside, and you all know how I feel about appropriations and trying to set policy; yesterday, and I don't know why he went down to appropriations, but David Massey was down there regarding some of the adult learning programs. Cathy Hawken told me they wanted half of the money to follow the student and they are going to need a little extra money. Appropriations said they perhaps to give them a jump start they should give them \$200.0 out of the current contingency dollars and then their working committee give them another \$100.0 in the second year because they would have the data as to how many students were dropping out and be able to figure this out. It's a good idea and it's a good program because if we can catch these kids even though they are dropping out and we can get them back into school. I told Cathy that was policy and should be part of 2200 if it's going to be part of anything. That is a big concern to me. So here again, we are chipping away and right or wrong it is probably something that we should be looking at but this Committee to be looking at it. I had a little bit of a problem with the math issue where we received \$150.0 and need \$126.0. My druthers, and Committee members you can do

