

**2023 HOUSE EDUCATION**

**HB 1349**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Education Committee Coteau AB Room, State Capitol

HB 1349  
2/1/2023

Relating to the weighted average daily membership

9:08 AM

Chairman Heinert opened the hearing. Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Hauck, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

### Discussion Topics:

- IEP (Individual Education Program)
- Special Education increases
- Summer education programs
- Home based education
- Language proficiency
- Reallocated dollars
- IDA
- All schools issue

Rep Eric Murphy, Dist 43, Grand Forks, introduced HB 1349, Testimony 18382  
John Porter, Special Ed Director, South Valley and Rural Cass Special Ed Units of SE North Dakota, Testimony 18216

Dr. Terry Brenner, Superintendent of Schools, Grand Forks Public Schools, Testimony 18215

Michael Heilmann, Executive Director, Small School Association, Testimony 18400

Kevin Hohertz, NDCEL, oral testimony

Mary McCarvel OcConnor, DPI, was called forward to answer questions

### Additional written testimony:

Dr. Aimee Copas, executive director, NDCEL, Testimony 18422

9:51 AM Chairman Heinert closed the hearing.

*Kathleen Davis, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau AB Room, State Capitol

HB 1349  
2/6/2023

Relating to the weighted average daily membership
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9:30 AM

Chairman Heinert opened the meeting. Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Hauck, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

## **Discussion Topics:**

- Changes weighted average
- Special needs students
- Additional fiscal note
- Guidelines for dollars
- IP students
- No data formula
- State/School District
- Special needs categories
- Unrestricted money

Adam Tescher, School Finance Officer, DPI answered questions

9:43 AM Chairman Heinert closed the meeting.

*Kathleen Davis, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau AB Room, State Capitol

HB 1349  
2/6/2023

Relating to the weighted average daily membership

11:11 AM.

Chairman Heinert opened the hearing. Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Hauck, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

## **Discussion Topics:**

- Possible Amendment

Chairman Heinert asked for request on amendments for HB 1349. Tabled until the afternoon.

11:12 AM Chairman Heinert closed the hearing.

*Kathleen Davis, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau AB Room, State Capitol

HB 1349  
2/6/2023

Relating to the weighted average daily membership

3:39 PM.

Chairman Heinert opened the hearing. Members present: Chairman Heinert, Vice Chairman Schreiber-Beck, Representatives Conmy, Dyk, Hager, Hauck, Heilman, Hoverson, Jonas, Longmuir, Marschall, Murphy, Novak, and Timmons.

### Discussion Topics:

- Committee Work

Representative Dyk moved a Do Not Pass on HB 1349.

Representative Marschall seconded the motion.

Roll call vote:

<b>Representatives</b>	<b>Vote</b>
Representative Pat D. Heinert	Y
Representative Cynthia Schreiber-Beck	N
Representative Liz Conmy	Y
Representative Scott Dyk	Y
Representative LaurieBeth Hager	N
Representative Dori Hauck	Y
Representative Matt Heilman	Y
Representative Jeff A. Hoverson	Y
Representative Jim Jonas	N
Representative Donald W. Longmuir	Y
Representative Andrew Marschall	Y
Representative Eric James Murphy	N
Representative Anna S. Novak	Y
Representative Kelby Timmons	Y

Motion carried. 10-4-0.

Representative Heilman: carrier.

3:42 PM Chairman Heinert closed the hearing.

*Kathleen Davis, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1349: Education Committee (Rep. Heinert, Chairman)** recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1349 was placed on the Eleventh order on the calendar.

**TESTIMONY**

**HB 1349**



**Dr. Terry Brenner**  
Superintendent of Schools

Phone: 701.787.4880  
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tbrenner270@mygfschools.org

January 31, 2023

Chairman Representative Heinert and members of the House Education Committee:

I am Dr. Terry Brenner, Superintendent of the Grand Forks Public School District. I am here today providing testimony in support of HB 1349.

Our school district and the state share in the mandate of providing high-quality education to all students. For a number of reasons below, the resources required in meeting this mandate for special education students are growing; especially regarding local school districts that pay the majority share of those expenses.

The ever-evolving Federal Law - IDEA - continues to define how special education is provided in the school setting. Today, students with disabilities have many rights, and school districts are responsible for teaching these students in a manner that provides an educational benefit. Educators have a better understanding of how to teach students with disabilities. Teaching students in this way has a financial cost that school districts are responsible to meet.

In addition to regulation, the Grand Forks School District is seeing a greater percentage of its student population requiring special education services each year. The percentage of students who qualify as a student with a disability has gone from approximately 15% in 2015 to approximately 19.5% this year. For perspective, in 1990, 10% was a high threshold.

Furthermore, we are witnessing a diversity in the types of disabilities which require specialty positions and expertise. The types of disabilities that we serve have made it necessary to hire staff that has not been in traditional positions in special education. We now have three behavior facilitators and a mental health therapist to assist us with meeting the needs of students with disabilities. These people are necessary to provide comprehensive and individualized plans for our students. This is exacerbated by a more competitive-than-ever job market, and some of the positions needed to provide special education (e.g. school psychologist, speech-language pathologist) require advanced degrees. Further, and something I'd like to infinitely highlight, schools are being tasked with being clinical settings for students who, in reality, need twenty-four-seven attendant care as it relates to social, emotional, and behavioral health.

Before the holiday break and just last week, I met with three paraprofessionals who work in one of our classrooms for students with autism. While all three love their work, despite escalated behaviors that produce harmful results for them as adults, they show up each and every day. The compensation gap, however, has been magnified by the workforce shortage and market pay. Paraprofessionals such as the aforementioned make \$15-17 per hour, far short of fast-food chains at \$19 per hour. A new and adjusted weighted formula would allow us to compete with the market and retain staff who are committed to our students yet presently cannot make financial ends meet. We started the school year short 90 paraprofessionals and we have been unsuccessful in recruiting to fill a majority of those positions. You can well imagine the combination of special education teacher creativity in addressing student services all the while burning the proverbial candle at both ends.



All of this has grown our special education budget which is shared with federal and state resources. Although shared, the local portion still carries 60% of that burden. For this reason, I am asking you to adjust the weighted daily average membership from 0.082 to 0.125 to support special education services across the state. This would share the responsibility of the service equally between state and local sources. The tables below show the current and proposed scenarios.

GFPS School Year 2020 - 2021 Special Education Expense (@ <b>Current Rate of 0.082</b> )			
Funding Source	Expense in Dollars	Percentage	Percentage of Non-Federal Sources
State	\$6,174,121.21	33%	<b>33%</b>
Local	\$12,707,813.59	60%	<b>67%</b>
Federal	\$2,359,737.79	11%	
Total	\$21,241,672.59		

GFPS School Year 2020 - 2021 Special Education Expense (@ <b>Proposed Rate of 0.125</b> )			
Funding Source	Expense in Dollars	Percentage	Percentage of Non-Federal Sources
State	\$9,411,770.13	44%	<b>50%</b>
Local	\$9,470,164.67	45%	<b>50%</b>
Federal	\$2,359,737.79	11%	
Total	\$21,241,672.59		

Within the last two school years, we have undergone a \$4 million budget reduction exercise which is just short of the special education funding gap we have experienced.

I laud and thank you for introducing HB 1349 and I am here supporting the bill.



Superintendent Dr. Terry Brenner  
 Grand Forks and Grand Forks Air Force Base Public School Districts

**TESTIMONY**  
**HOUSE EDUCATION COMMITTEE**  
**2-1-2023**  
**by John Porter, Special Education Director**  
**701-640-1421**  
**South Valley and Rural Cass Special Education Units**

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Chairman Heiner and members of the committee:

My name is John Porter. I am the Special Education Director for the South Valley and Rural Cass Special Education Units in southeast North Dakota. I am here to provide testimony in support of House Bill 1349. I have worked in special education in North Dakota for nearly 23 years. I began as a paraeducator, worked 4 years in Minot Public Schools as a special education resource room teacher for students with emotional disturbance, worked 4 years as a ND DPI special education coordinator, and for the last 14 years as a special education director. These wonderful opportunities in special education have provided me many learning opportunities about special education programming, special education law and special education funding.

My current position as special education director is a shared position between two special education units, South Valley Special Education Unit and Rural Cass Special Education Unit. The two units are made up of 15 school districts in southeast North Dakota. Rural Cass Special Education Unit is made up of Northern Cass, Central Cass, Mapleton, and Kindred school districts. South Valley Special Education Unit is made up of Lisbon, Ft. Ransom, Enderlin, Richland 44, Fairmount, Hankinson, Wyndmere, Lidgerwood, Milnor, North Sargent, and Sargent Central school districts. It is important to recognize that our two units operate as two separate units but share several areas of staffing and programming. We share a director, administrative assistant, office location, school psychologists and

cooperatively support a behavior program for students with the most significant behavior challenges in our units. We contract and collaborate with the Southeast Education Cooperative (SEEC) for some of our business services, behavioral programming, and some of our OT and PT services. We have one shared part time coordinator for a specific behavior program for students with the most significant behavior challenges.

I share these details about our units as I want the committee to understand that our two units operate very efficiently and continuously seek opportunities to provide better services to support students with disabilities. We strive to work collaboratively in grant writing and medicaid billing to maximize funding outside of the state formula. In the end, as with most districts, a proportionate share for funding special education services comes from local and state funding sources. In my opinion, the current weighted unit factor (.082) for special education is outdated and inadequate to support the special education needs in our state. I have attached a chart depicting the amount of general funds are used in several of our districts to supplement the inadequate state special education funds. I selected districts to offer a sampling of various school district enrollments as well as examples of districts that are in a growth pattern of enrollment and those that are remaining level with enrollment. As you can see in the attachment there is a substantial amount of general funds in each district that is used to supplement special education services. You can also see the amount of general funds is progressively increasing in each school district from year to year. I can strongly attest the need for additional special education services is only going to grow in years to come.

The weighted factor for special education as it currently stands at .082 was established in 2013 and has remained unchanged for the last 10 years. At one point in time, it was suggested that the weighted factor for special education in our funding formula (.082) was established to follow the percentage of students identified as

needing special education services (8.2%). Or in other words the number of students in North Dakota who are evaluated and determined eligible for special education in ratio to the total number of students enrolled in North Dakota schools. This chart will help show the identification rate of students identified as eligible for special education services in comparison to total state student enrollment. As you can see the percentage of students identified with disabilities has hovered around 12-13% for the past five years. As a weighted factor according to the current state funding model this would be .125, which aligns directly with the proposed factor included in HB 1349. In addition to the higher percentage of students who are eligible for special education services I have also observed a significant increase in the level of services necessary to support the education needs of students with disabilities. Frequently, local district education teams are addressing the needs of individual students who have trauma/mental health needs, behavioral needs, communication needs, and academic needs. Please note the conjunction “and” in that sentence. Our state funding support for special education services must begin to align to the needs and services our students present to our local school districts.

2017-2018	111,719	15,174	12%
2018-2019	113,646	15,902	12%
2019-2020	114,825	16,485	13%
2020-2021	115,986	16,459	12%
2021-2022	116,694	17,054	13%

Chairman Heinert, members of the committee this concludes my testimony in support of HB 1349. Thank you for your time and consideration of this bill. I am happy to answer any questions the committee may have.

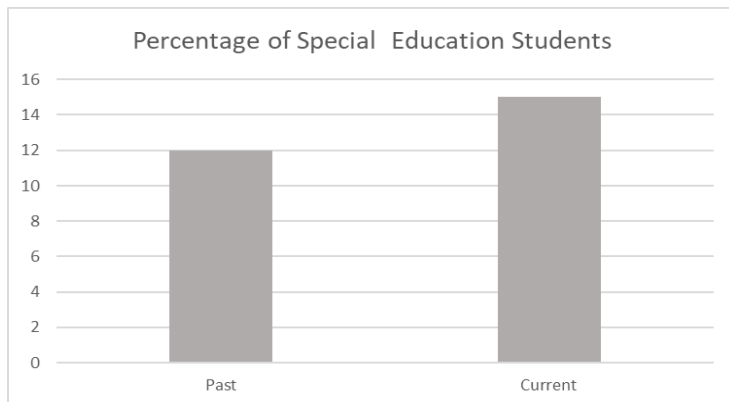
	Fiscal Year	Project 2022	2021	2020	2019	2018
<b>Kindred</b>	Para expense	\$370,000.00	\$263,051.00	\$219,858.00	\$204,216.00	\$172,840.00
	Assessment to unit	\$851,100.00	\$798,000.00	\$782,124.00	\$715,300.00	\$660,000.00
	State revenue	\$750,204.00	\$717,741.00	\$685,763.00	\$657,828.00	\$633,259.00
	Differ/Gen Fund	\$(470,896.00)	\$(343,310.00)	\$(316,219.00)	\$(261,688.00)	\$(199,581.00)
<b>Northern Cass</b>	Para expense	\$436,657.11	\$332,552.72	\$254,127.09	\$284,967.93	\$269,504.81
	Assessment to unit	\$691,560.00	\$660,684.44	\$638,963.36	\$595,863.00	\$476,694.00
	State revenue	\$552,491.00	\$522,105.00	\$515,850.00	\$497,066.00	\$491,849.00
	Differ/Gen Fund	\$(575,726.11)	\$471,132.16)	\$(377,240.45)	\$(383,764.93)	\$(254,349.81)
<b>Central Cass</b>	Para expense	\$670,000.00	\$563,883.00	\$460,028.00	\$417,596.00	\$352,386.00
	Assessment to unit	\$997,059.00	\$929,361.00	\$896,499.00	\$833,604.00	\$757,822.00
	State revenue	\$820,393.00	\$788,378.00	\$779,094.00	\$745,796.00	\$704,061.00
	Differ/Gen Fund	\$(846,666.00)	\$(704,866.00)	\$(577,433.00)	\$(505,404.00)	\$(406,147.00)
<b>Lisbon</b>	Fiscal Year	Project 2022	2021	2020	2019	2018
	Para/tchr expense	\$923,369.00	\$793,504.00	\$619,450.00	\$577,611.00	\$549,409.00
	Assessment to unit	\$ 34,736.00	\$ 33,957.00	\$ 48,254.00	\$ 44,009.00	\$ 44,329.00
	State revenue	\$525,033.00	\$514,427.00	\$502,793.00	\$491,452.00	\$483,287.00
	Differ/Gen Fund	\$(433,072.00)	\$(313,034.00)	\$(164,911.00)	\$(130,168.00)	\$(110,451.00)
<b>Richland 44</b>	Para/Tchr expense	\$390,461.00	\$345,535.00	\$351,806.00	\$290,137.00	\$230,238.00
	Assessment to unit	\$ 20,742.00	\$ 20,308.00	\$ 26,987.00	\$ 24,471.00	\$ 24,411.00
	State revenue	\$267,992.00	\$258,980.00	\$ 247,004.00	\$239,176.00	\$236,902.00
	Differ/Gen Fund	\$(143,211.00)	\$(106,863.00)	\$(131,789.00)	\$(75,432.00)	\$(17,747.00)
<b>Fairmount</b>	Para/tchr expense	\$165,488.00	\$153,060.00	\$136,322.00	\$127,716.00	\$126,301.00
	Assessment to unit	\$ 12,242.00	\$ 12,156.00	\$ 14,795.00	\$ 14,039.00	\$ 14,037.00
	State revenue	\$139,894.00	\$133,247.00	\$107,553.00	\$108,118.00	\$107,309.00
	Differ/Gen Fund	\$(37,836.00)	\$(31,969.00)	\$(43,564.00)	\$(33,637.00)	\$(33,029.00)
<b>Wyndmere</b>	Para/tchr expense	\$297,531.00	\$288,531.00	\$ 254,238.00	\$237,813.00	\$275,568.00
	Assessment to unit	\$20,692.00	\$ 20,738.00	\$ 28,264.00	\$ 25,998.00	\$ 24,977.00
	State revenue	\$256,989.65	\$ 251,778.24	\$ 254,111.52	\$249,241.55	\$225,963.34
	Differ/Gen Fund	\$(61,233.35)	\$(57,490.76)	\$(28,390.48)	\$(14,569.45)	\$(74,581.66)

Testimony for Hearing on HB1349  
Primary Sponsor: Eric J. Murphy, District 43

Thank you, Chairman Heinert and my honorable colleagues on the Education Committee. For the record, my name is Eric James Murphy, representative from District 43, Grand Forks.

In our school districts across the state there is an ever increasing need to provide educational opportunities for **all** students regardless of their needs. The Education of Handicapped Children Act was passed in 1975 and in 1990 was renamed the Individuals with Educational Disabilities Act (IDEA). This Act is a federal mandate that requires every public school in the United States to provide education for **all** students in the least restrictive environment possible. This law in 2006 was modified to require school districts to use research-based interventions in the process of assisting students with learning difficulties, adding additional costs.

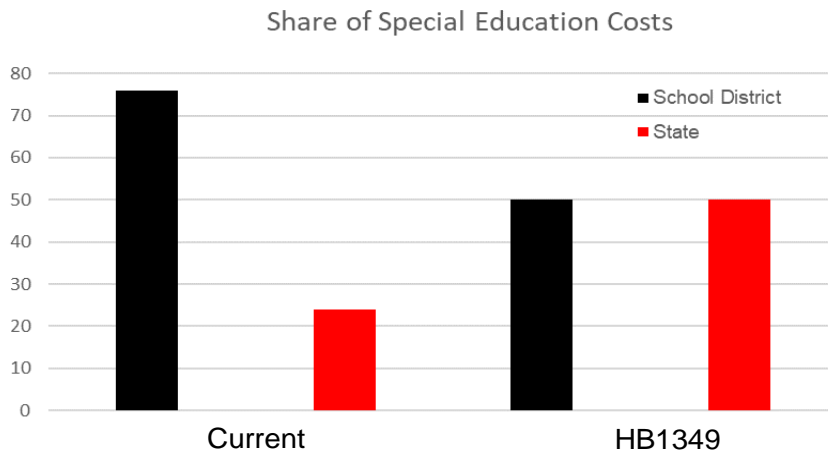
This law also requires that if the assessment of a student indicates that they require special education services, the school must work with a student's parents to develop an Individualized Education Program (IEP). This



document is a formal contract that outlines the services and support a school district must provide for a student.

This is the backdrop where we find ourselves today. Just 10 years ago, about 12% of students required an IEP and today the number is between 15-20%, depending upon the state.

This increase in students has resulted in an upward spiraling increase in the costs to provide services contractually required by an IEP as delineated in federal statute. This has continued to increase the financial burden on school districts across North Dakota to provide these services.



While this increase is only about 3-8% depending upon the state, the increased costs are staggering.

Currently, in North Dakota, the costs to provide the services required by an IEP is shared between the state and the school district. At the present time, the distribution of the cost share is about 76% for the school district

and 24% for the state. HB1349 would shift the weighting factor in the funding formula for special education from **0.082** to **0.125** as found in Section 15.1-27-03.1 section j. This would shift the cost burden to parity for the state and each school district, sharing the costs mandated by the IDEA at a 50/50 split.

This bill is not without significant costs and to be honest the fiscal note is a heavy lift at \$103.7M. But what does this mean for our school districts? It means funds will be liberated to help offset other educational missions, including use for increased teacher salaries. We are all aware that teacher salaries in North Dakota are still low, although great gains have been made in the past decade to increase these salaries. **Changing this weighting factor would cause a significant shift in financial resources available for all of our school districts, from the smallest to the largest.**

I know this is a difficult decision and frankly it would be easy to be dismissive of this very simple bill, with an extraordinarily high fiscal note. A bill that merely equalizes the cost share between the state and our school districts for the special education services to provide educational opportunities for our students. We can dismiss it or we can vote a **do pass** in the Education Committee. We can choose to liberate resources through this bill that will enable our school districts resources to be used to enhance the education of our most precious asset, our children. Or we can just say that this change costs too much. The choice is ours and I urge you to send this to the Appropriations Committee with a do pass.

Ladies and gentlemen, I leave this decision in your hands.



# North Dakota Small Organized Schools

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HB 1349 – Testimony in Support  
House Education Committee  
Representative Heinert– Chairman  
February 1, 2023

Representative Heinert and members of the House Education Committee, my name is Michael Heilman. I am the Executive Director of the North Dakota Small Organized Schools (NDSOS). I represent 150-member school districts of the North Dakota Small Organized Schools. NDSOS stands in support to HB 1349.

This bill is quite simple and easy to support. The cost districts have incurred related to serving all of our students have increased just like most other goods and services. This certainly is no different for student with special needs. This bill will increase the weighting factor from .0820 to .125 an increase of .043. This would mean approximately \$430 additional for each student. This is not a large dollar amount but will help districts small and large serve our most vulnerable and fragile learners. This may be enough to supplement the purchase of programming or support services for a group or an individual student.

NDSOS supports a do pass recommendation on HB 1349.

Mr. Michael Heilman – Executive Director  
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**The mission of NDSOS is to provide leadership for the small/rural schools in North Dakota and to support legislation favorable to their philosophy while opposing legislation that is harmful.**





1 HB 1349 – SPED weighting factor

2 Testimony in support

3 Chairman Heinert and members of the House Education Committee – I am here today  
4 representing NDCEL and your K12 school leaders as we support HB 1349 that addresses  
5 the Special Education weighting factor.

6 As school leaders working in partnership with the legislature – we spend each session  
7 and each interim session grappling with gaps in the formula. One of the areas that we’ve  
8 identified together that has been grossly underfunded is in special education. We’ve  
9 lobbied congress continually to better fund IDEA, but sadly our students who struggle  
10 the most and need more fiscal support are not seeing movement at the federal level.

11 The state has provided a small fiscal note to support those students, and this bill makes  
12 a strong move in the right direction for our special education students. The weighting  
13 factor adjustment outlined in this bill would bring the funding of special education closer  
14 to the percentage that the state funds regular education students – close to 80%. Those  
15 students deserve that adequate and equitable payment. Often, we are unable to provide  
16 the kinds of raises to our employees at the level that we or our communities would like  
17 to see – but frankly that is because dollars must be used to back fill underfunded areas  
18 thereby making it difficult to be competitive with regard to salary.

19 This funding in combination with the proposed funding bill (SB 2284) (assuming both  
20 stay at the funding level they are at now in the bills) would be supporting our public  
21 schools in a way that would be tremendous for our students.

*NDCEL is the strongest unifying voice representing and supporting administrators and educational leaders in pursuit of quality education  
for all students in North Dakota.*

*Executive Director: Aimee Copas-----Government Lead and Special Projects: Kevin Hoherz*