



bulletin



MARCH 2012

Excellence in North Dakota public education through local school board governance ■ VOL XXXVII ISSUE 3

ND DPI Passes on February Waiver Application

In mid-February, Superintendent of Public Instruction Wayne Sanstead announced that the ND Department of Public Instruction (DPI) would not apply for No Child Left Behind (NCLB) flexibility waivers until September 2012.

Because most agree federal requirements in NCLB are unrealistic, unattainable, and unsupportable and because Congress is unlikely to pass new education legislation anytime soon, the U.S. Department of Education (ED) devised a way for states and school districts to be relieved of some requirements via an application for flexibility waivers. However, these waivers contain new federal requirements that promote the educational philosophies of the ED and Education Secretary Arnie Duncan.

If North Dakota applies for the waiver, the state's plan must include assurances under four principles:

1. Transitioning to college and career-ready standards and assessments

This includes state adoption and adherence to common core standards and common assessments, including a growth measure that provides data to determine individual student readiness

for college/career and uses this data as a significant factor in teacher/principal evaluation.

2. Developing systems of differentiated recognition, accountability, and support

The state plan must include a system for new Annual Measurable Objectives (AMO)--replacing AYP. There must be accountability for all students and subgroups tied to student achievement in language arts and math, graduation rates, and student progress over time. The state must provide incentives and interventions for three categories of school success: reward schools, priority schools, and focus schools. The state must ensure local capacity for improvement interventions and rewards.

3. Supporting effective instruction and leadership

The state must provide guidelines for local teacher and principal evaluation and support systems--with evaluations using at least three levels of performance and multiple measures including student growth as a significant factor. Local school districts must develop and implement those evaluation systems within state guidelines with involvement of teachers. Evaluation

VOTE NO on MEASURE 2



For more information:
www.keepitlocalnd.com

training must be provided for teachers and principals.

4. Reducing Duplication and Unnecessary Burden

The state must ensure that it will evaluate and, based on that evaluation, revise its own administrative requirements of local school districts in order to reduce duplicative and burdensome reporting requirements that have little or no impact on student outcomes.

If a state's plan meets the scrutiny of peer review and ED evaluation for waivers, schools would no longer have to meet the old AYP requirements. Many schools previously identified as needing improvement would not have to set aside 30 percent of Title I funds for intervention and would have those funds available for direct student services. In addition, the state would not face loss of federal funding for not meeting AYP requirements.

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Veteran's Preference Notice

Veteran's preference laws were revised during the 2011 Legislative Session. When school districts publish and/or post vacancy notices for teaching and superintendent positions, they must ensure that the notice states that these positions are exempt from Veteran's Preference. NDSBA recommends that districts update policy and hiring procedures to reflect this change in order to ensure it is not overlooked. If an

advertisement or posting for a position exempt from Veteran's Preference does not contain this notice, your district must comply with Veteran's Preference hiring procedures contained in law.

The exemption for teacher and superintendent positions does not apply to principal positions in schools. Principals are still entitled to Veteran's Preference under state law.

Teacher Nonrenewal, Discharge, and Resignation Handbook Now Available

NDSBA recently developed a handbook on teacher nonrenewal, discharge, and resignation. The handbook guides users through each of these processes from start to finish. It contains suggested timelines, step-by-step guidance based on law and best practices from NDSBA legal counsel, and sample board motions and forms in a fillable format allowing customization of the forms as needed. The handbook is available for the purchase price of \$200 (includes three years of updates) at: www.ndsba.org/handbooks/preview.asp or by clicking the "NDSBA Store" icon on the NDSBA homepage (www.ndsba.org). A preview of the handbook can be accessed on the NDSBA Store webpage.

Upon purchase, your district will receive a unique username and password to access the handbook online. The handbook can be downloaded and/or printed for your district's use. Districts that purchase the handbook will receive email alerts when the handbook is updated.



from the director's chair

■ by Jon Martinson, NDSBA Executive Director

Property Taxes Represent An Investment in Community

Last month, proponents of Measure 2 (M2) filed a lawsuit against NDSBA and others who oppose the proposed constitutional amendment to eliminate property taxes. Part of the suit asks the court to find that defendants violated the state corrupt practices act by voicing objections to the measure. Clearly this is an attempt to silence elected officials—those most knowledgeable about the measure's harm—and over sixty coalition organizations formed to oppose M2. Let me assure you that NDSBA will continue to speak out and raise our voice against this ill-conceived measure until the court tells us otherwise.

We will speak out against unsubstantiated claims by supporters of M2 such as eliminating property tax is the only way to protect homeowners—especially the elderly living on fixed incomes—from being evicted from their homes by the government for non-payment of taxes. In response to this claim, the North Dakota Association of Counties visited with county auditors throughout the state to get specifics. In 2010, only eight foreclosures statewide involved occupied or recently occupied homes—and none of the occupants were elderly. The majority of foreclosures were on vacated lots or homes that are not in a livable condition. Thus, foreclosures rarely result in evictions and even more rarely impact the elderly.

Considering the fact that property taxes are used to pay for schools—along with city, county, and park district facilities/projects—why would anyone want to eliminate property tax? The following statement on *Empower The Taxpayers'* website (the organization pushing Measure 2) is revealing:

We believe a free people should be able to be secure in their

home and not fear losing it to the government and/or have to rent their own home from the government, even after they have paid off their mortgage. We believe it is wrong to force citizens, who have worked hard and paid off a mortgage over 20 to 30 years to then require they rent their home from the government or lose it!

In other words, in *Empower The Taxpayers'* view, as long as a household pays property taxes, the homeowner is "renting" their home from the government. This statement totally ignores the many services paid by property taxes at the local level:

- **Schools:** employee compensation, utilities, and instructional supplies like textbooks
- **Counties:** roads, law enforcement and jail facilities, social services such as care for the elderly, child protection, and foster care
- **Cities:** law enforcement, fire protection, and snow removal
- **Park Districts:** maintenance of indoor and outdoor recreational/wellness facilities for youth and adults including playgrounds, parks, golf courses, and walking/running trails

If M2 passes, North Dakota would lose more than \$800 million generated annually from property taxes. Services listed above won't become a free entitlement. Rather, there will be a shift in taxes to other areas such as income and sales tax. In addition, services will be determined and approved by the state legislature thereby completely removing local control and decision making.

bulletin

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EDITOR Bev Nielson

PUBLISHER

North Dakota School Boards Association
PO Box 7128
Bismarck, ND 58507-7128

TELEPHONE 1-800-932-8791

LOCAL (701)255-4127

FAX (701)258-7992

WEB SITE www.ndsba.org

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■ WAIVER APPLICATION

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While these two benefits seem attractive, local districts must ask and answer the following important questions before deciding if they support the state applying for waivers:

- How will the ED's final approval of the state plan impact your school district's budget and program plans for the next two years?
- What requirements in the state plan will you have to plan for and implement in the next two years?
- What budgetary and staffing changes will be involved?
- How will the state plan impact your school board's oversight and governance functions?
- How will eventual reauthorization of ESEA impact the new systems put in place because of waivers?

DPI formed a committee last fall for the purpose of evaluating everything involved in a waiver application. After several months of meetings, the committee was evenly split on the question of submitting an application. Primary area of concern was attaining agreement on what system of teacher/principal evaluations should be used and how would the state and local districts fund necessary training.

Funding for required changes must be considered. Several waiver requirements are similar to Race to the Top (RTTT) components. As we know, several states were awarded hundreds of millions of dollars to help defray costs of implementing RTTT. Now the ED is offering waivers to tempt states into adopting ED philosophies but is offering no funding for implementation.

Keep in mind that waivers are not permanent and have their own targets that must be met. It is important that school board members and administrators educate themselves on potential benefits and drawbacks to North Dakota applying for waivers. Communicate your questions and concerns to DPI.



From left: Emily Tryon, legislative assistant; Senator Hoeven; Jim Johnson, Fargo; Shawn Affolter, legislative correspondent.

Board Members Meet with Congressional Delegation in Washington, D.C.



Kris Wahllman, Fargo; John Strand, Fargo; Angela Korsmo, West Fargo; Jim Johnson, Fargo; and Kirsten Baesler, Mandan



From left: Jim Johnson, Fargo; John Strand, Fargo; Congressman Rick Berg; Angela Korsmo, West Fargo; Kris Wallman, Fargo; Jon Martinson, NDSBA.

Hope Voters See Measure's Effect

By Jerry Splonskowski

Opponents of Measure 2 have their work cut out for them.

They have my support, and I hope history will repeat itself and North Dakota will resist this effort to become a pilot project for radical anti-tax groups (think Jarvis Foundation out of California) and maintain the rational thinking, long-term vision and overall sensible values that North Dakota is known for.

Even though opponents of Measure 2 have the facts on their side (elderly people are not getting kicked out of their homes), it can take a lot of time and repetition to explain what services property taxes actually pay for, such as schools, libraries, police and fire

protection, streets and sewer.

Essentially, opponents have to cram a civics lesson into a sound bite while proponents can spout faulty logic and half-truths.

I urge all voters to truly think about what Measure 2 will do. Much of the rhetoric from supporters is spoken in anger and is similar to the Occupy Wall Street movement.

This group wants something for nothing; they want all the local services, but want someone else to pay for them. They want the state to fund local services, but yet maintain that they will have local control.

Their logic, while attractive, doesn't make sense. If I want a community I

can be proud of, I am going to have to pay something to support those services I rely on—that is, my property tax. This is another attempt at getting everything, yet paying for nothing.

The fringe ideas always seem attractive because they have grand promises, but never seem to live up to the hype. This is exactly what Measure 2 is: a fringe idea that promises the world but fails to describe how it will get there.

I'm hoping North Dakota voters see through the empty promises touted by those supporting Measure 2 and will defeat Measure 2.

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SELF-DEFENSE AND SCHOOL SAFETY

THE PROBLEM

The February 17 report of an apparent kidnapping and presumed death of Sherry Arnold, a mathematics teacher and mother in Sidney, Montana, has generated a heightened safety awareness to western North Dakota. More specifically, a concern for self-defense has prompted a review of school district policies related to the possession of weapons on school property by employees. Given the absence of school resource officers in most North Dakota school districts, the ability of school employees to possess self-defense weapons is likely to become an issue in North Dakota, as has been the case in other states.

OUT-OF-STATE LEGISLATION AND LITIGATION

While the vast majority of states prohibit weapons being brought into schools, some recent changes are worthy of review.

1) Oregon – 2007

An Oregon teacher with a license to carry a concealed handgun told a state court that she would begin bringing a pistol to class by the end of the month, even though school district policy prohibited teachers from carrying firearms in school. Medford School District (“MSD”) teacher Shirley Katz sued the school district, arguing it could not forbid her a right allowed by state law. She also maintained she was a domestic violence victim and needed the handgun for protection. MSD’s attorney argued that if the teacher prevailed, guns in school could multiply and districts could be exposed to greater liability from accidents. At the heart of the Katz case is the issue of whether state law supersedes a school district’s policies about guns in school. MSD has a policy that says

teachers cannot carry firearms in school. State law allows people with permits to carry concealed handguns onto public property. The Court held that school districts could adopt a policy which regulates possession of firearms.

2) Texas – 2008

To deter and protect against school shootings, trustees in the tiny Harrold School District have altered district policy to allow employees to carry concealed weapons if they have a state permit and permission from the administration. Teachers and staffers could carry firearms if they: have a Texas license to carry a concealed handgun; are authorized to carry by the district; receive training in crisis management and hostile situations; and use ammunition designed to minimize the risk of ricochet in school halls. Ken Trump, a school security expert who advises districts nationwide, said HISD is the first district he knows of with such a policy. Trump said he would have advised against allowing teachers to arm themselves, if only because of liability concerns. Superintendent David Thweatt said the small community is a 30-minute drive from the sheriff’s office, leaving students and teachers without protection. Mr. Thweatt said the district’s concern over the likely law enforcement response time was based on the importance of this factor in recent school shootings. Permission to possess a weapon on campus will be restricted to staff members individually approved by the school board who undergo extensive training akin to law enforcement training, adding that a teacher’s temperament will be considered in the decision.

3) Nebraska – 2011

On the heels of the fatal shooting of an Omaha-area school administrator by a despondent student, a bill has been introduced to allow teachers, administrators, and school security guards to carry concealed guns, says the Lincoln Journal Star. The bill, LB16, would allow local school boards to elect by a two-thirds vote to allow such weapons on their property. Nebraska now allows people to carry concealed weapons if they are licensed to do so, but the weapons are restricted in many places, including schools. The proposed bill allows local schools to be able to change that. Brian Hale, director of communications for the Nebraska Association of School Boards, said there is talk nationwide about implementing tighter security at school board meetings after a recent shooting at a meeting in Florida. “But allowing a wide swath of school personnel to carry a concealed weapon seems like a bad idea to us,” Hale said.

NORTH DAKOTA LAWS ON WEAPONS

Three sections of Chapters 62.1-01 and 62.1-02 of the North Dakota Century Code are of particular relevance to the issue of self-defense possession of weapons in schools:

- a) 62.1-01-01(1). “Dangerous weapons” are defined to include various knives, martial arts weapons, bow and arrows, stun guns, BB guns and “. . . any object containing or capable of producing and emitting any noxious liquid, gas, or substance.” (This appears to include pepper spray.)
- b) 62.1-02-05. Possession of a firearm at a public gathering – Penalty – Application.
 1. A person who possesses a firearm at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, “public gathering” includes athletic or sporting events, schools or school functions.

* * *

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3. This section does not prevent any political subdivision from enacting an ordinance which is less restrictive than this section relating to the possession of firearms at a public gathering.

c) 62.1-02-13. Possession of secured firearm – Prohibition by employer prohibited.

1. A public or private employer may not:
 - a. Prohibit any customer, employee, or invitee from possessing any legally owned firearm, if the firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot and if the customer, employee, or invitee is lawfully in the area....

e. Terminate the employment of or otherwise discriminate against an employee . . . for exercising the constitutional right to keep and bear arms or for exercising the right of self-defense as long as a firearm is never exhibited on company property for any reason other than lawful defensive purposes.

6. The prohibitions in subsection 1 do not apply to:
 - a. Any public or nonpublic elementary school, middle school, high school, college, or university property.

It is noteworthy that a school board is permitted to adopt a less restrictive “ordinance” relating to possession of a firearm at schools or school functions (see b, above), but cannot alter an employer’s prohibition of possession of a firearm at an elementary, middle or high school. Simply stated, school boards appear to have the right to regulate possession of dangerous weapons

in North Dakota, subject to judicial interpretation similar to that discussed above.

CONCLUSIONS

It is not uncommon for a balancing test to provide more “gray” answers than “black and white.” The balancing of employees’ rights to protect themselves via weapons, such as pepper spray and concealed weapons, must be balanced against the resulting erosion of safety in our schools, which is the primary goal of school board policies that prohibit weapons in schools. Policy restrictions on the possession of weapons (e.g., requiring that pepper spray and other weapons be stored in a secure place during the school day), as well as the use of resource (security) officers, may be viable alternatives. In seeking to reach a decision, the possibilities for litigation asserting the right to self-protection must be considered, together with the potential liability for the reduction in the level of safety provided in our schools. A careful review of existing policies and practices is definitely merited.

ND Students Honored for Volunteer Spirit

Hope Reis, 18, of Bismarck and Taytum Jones, 13, of Minot were honored as North Dakota’s top two youth volunteers for 2012 by The Prudential Spirit of Community Awards, a nationwide program recognizing young people for outstanding acts of volunteerism. Hope was nominated by Century High School in Bismarck and Taytum by Erik Ramstad Middle School in Minot.

Hope, a junior, organized a day of downhill skiing for children with special needs. Visually impaired herself, Hope came up with the idea for “A Day on the Hill for Kids with Special Needs” when she was working with the local ski patrol to complete her Girl Scout Gold Award. “When I went skiing, I felt like I was a normal person and did not feel like I had a disability,” said Hope. “I wanted to give people with all different kinds of disabilities a chance to do something

they did not think they would be able to do.”

Taytum, an eighth grader, has been volunteering with students with disabilities since she was in third grade—both in school and in the community.



After Taytum discovered that there was a special classroom for students with autism in her elementary school, she said, “I kept thinking how cool it would be if I could go down into their room and interact with them, but I always said to myself, ‘No, I’m only in third grade!’” Finally, she asked her teacher and was given permission to miss an hour of class every other day to work in the autistic room. “I thought that was the greatest thing,” she said. Taytum also volunteered with an organization called “Dream Catchers” that teaches children with disabilities to play baseball. “I think I have made a great impact on children,” said Taytum, who wants to be a special education teacher when she grows up.

“I wanted to give people with all different kinds of disabilities a chance to do something they did not think they would be able to do.”

Hope Reis

As State Honorees, Hope and Taytum each receive \$1,000, an engraved silver medallion, and an all-expense-paid trip to Washington, D.C., where they will join the top two honorees from each of the other states. Ten will be named America’s top youth volunteers for 2012 at that time.

Two other North Dakota students were recognized as Distinguished Finalists for their impressive community service activities—Andrew Hershey, 17, a senior at Rugby High School and Nicole Rixen, 17, a senior at Jamestown High School.

If your district needs assistance with nonrenewal procedures, call NDSBA at (800)932-8791.

MEASURE 2: Q & A

Q: What would Measure 2 do?

A: Measure 2 would amend the Constitution of North Dakota, abolishing the authority of any government entity to levy a tax on the assessed value of property.

Q: What's so bad about abolishing property taxes?

A: Property tax is the only strictly LOCAL tax. Locally elected officials decide the level of taxation and vote directly on issues such as building new schools, parks, roads, and bridge projects based on their community needs. If Measure 2 passes, these officials will be required to ask legislators from across the state—not local residents—to fund local priorities.

Q: Measure 2 says that the legislature must “fully and properly fund all legally imposed obligations” of local government. What are the legally imposed obligations?

A: No definition is provided in the measure, so it would be up to the legislature to decide what constitutes a legally imposed obligation and up to courts to settle disputes. This uncertainty, along with the likelihood of extensive court battles, is one of the areas of concern of both local

governments and the business community.

Q: Where would we get money to replace property tax revenue?

A: Measure 2 mandates that the legislature replace the approximately \$850 million raised in property taxes with other sources. The legislature could shift the entire burden to another tax. For example, this would require tripling the income tax rate or doubling the state sales tax rate.

Q: Why not just use all that oil tax money?

A: It would also require an oil tax increase to generate enough money because the state already locks up 40 percent of oil revenue in protected trust funds.

Q: How many other states have eliminated property taxes?

A: None. Every state has property taxes for funding local government.

Q: Why not try it and see how it works?

A: To change the state Constitution requires a statewide vote. If people don't like the effects of Measure 2, the only way to reverse it would be to get it on the ballot again for a citizen vote—a process that would likely take two years or more.



Applicants for superintendent positions are exempt from Veteran's Preference (does not apply to principal positions).

Adams-Edmore School Districts

(Shared Superintendent)

Contact: Diane Martinson, BsMgr.

PO Box 188

Edmore, ND 58330

701-644-2281

e-mail:

diane.martinson@sendit.nodak.edu

Deadline: Until filled

Montpelier School District

(Superintendent/Secondary Principal)

Contact: Amy Maurer, BsMgr.

PO Box 10

Montpelier, ND 58472-0010

701-489-3348

e-mail: amy.maurer@sendit.nodak.edu

Deadline: Open

Save the Date

NDSBA, NDCEL, NDEA, and DPI announce the 4th Annual North Dakota Dropout Prevention Summit. The summit will be held in Bismarck on June 6 and 7 at Bismarck High School. Registration is to be completed online at www.ndcel.org.

2012 NDSBA Annual Convention
 Ramkota Hotel, Bismarck
 October 26-27, 2012

CLINIC SESSION SUGGESTIONS

Deadline: April 16, 2012

The NDSBA staff is looking for suggestions for clinic session topics to be offered during the 2012 Annual Convention. Below is a list of sessions previously presented along with suggested new topics. Check the box at the left of the sessions that you would like offered. The reverse side provides an opportunity for your district and/or students to be involved. *Thanks for your help!*

<input type="checkbox"/>	School law trends and regulatory changes
<input type="checkbox"/>	Effective habits of good boards (agenda setting, parliamentary procedure, etc.)
<input type="checkbox"/>	The board's role in managing district dollars
<input type="checkbox"/>	Concussion management training program
<input type="checkbox"/>	Common core standards: What do I need to know?
<input type="checkbox"/>	Federal legislation and ESEA reauthorization update
<input type="checkbox"/>	Board/supt/business manager relationship
<input type="checkbox"/>	Basics of school finance
<input type="checkbox"/>	Addressing achievement goals of minority students
<input type="checkbox"/>	Employment law
<input type="checkbox"/>	Defining and evaluating good teaching

<input type="checkbox"/>	Cost-effective dropout prevention
<input type="checkbox"/>	Teaching with iPod Touch, iPad, and cell phones in the classroom
<input type="checkbox"/>	Past, present, and future of state assessments
<input type="checkbox"/>	Impact of energy growth on local school districts
<input type="checkbox"/>	Leadership track for experienced board members
<input type="checkbox"/>	Gearing up for the 2013 legislative session: What are the issues?
<input type="checkbox"/>	Expectations that administrators have for board members
<input type="checkbox"/>	New health care reform requirements
<input type="checkbox"/>	Education issues related to texting, smartphones, and social media
<input type="checkbox"/>	What's new in education policy?
<input type="checkbox"/>	Use of committees to decrease board meeting time

Return by April 16, 2012

NDSBA, PO Box 7128, Bismarck ND 58507-7128
 Phone: 1-800-932-8791; Fax (701)258-7992

2012 NDSBA Annual Convention
Ramkota Hotel, Bismarck
October 26-27, 2012

CLINIC SESSION PROPOSAL
Deadline: April 16, 2012

Please suggest a topic that you think would be of interest to school board members, administrators, and business managers. **We would be pleased to have your district share an innovative program or practice that has had an impact.** Presenters are required to bring their own equipment; internet access is available at the hotel. NDSBA is not able to reimburse clinic presenters for expenses.

Clinic Session (45-minute sessions)	
Title of clinic session:	_____
Description of clinic session:	_____
Suggested presenter(s):	_____
Position/Title:	_____
School District/Organization:	_____
Address:	_____ City, ST Zip_____
Phone:	E-mail: _____

Focus on Students is a new effort to include students. We invite your district to recommend a student or student group that has received recognition for achievement in the arts, science, speech, performance, or literary area. Selected student(s) will be invited to present their work along with a discussion of their efforts.

Focus on Students (45-minute sessions)	
Title of clinic session:	_____
Description of clinic session:	_____
Suggested presenter(s):	_____
Position/Title:	_____
School District/Organization:	_____
Address:	_____ City, ST Zip_____
Phone:	E-mail: _____

Person Submitting Form:

Name: _____ Title: _____

School District/Organization: _____

Address: _____ City, ST Zip: _____

Phone: _____ E-mail: _____

Return by April 16, 2012
NDSBA, PO Box 7128, Bismarck ND 58507-7128
Phone: 1-800-932-8791; Fax (701)258-7992