

EDUCATION FUNDING COMMITTEE

The Education Funding Committee was assigned one study. Section 58 of 2013 House Bill No. 1013 directed a study of state-level and local-level responsibility for the equitable and adequate funding of elementary and secondary education in this state.

The Legislative Management also assigned to the committee the responsibility to receive reports regarding the financial condition of schools, school district employee compensation, the status of the statewide longitudinal data system plan, requests for and waivers of accreditation rules, requests for and waivers of statutory requirements governing instructional time for high school courses, student scores on recent statewide tests of reading and mathematics, and the development, delivery, and administration of comprehensive early childhood care and early childhood education in this state.

Committee members were Senators Tim Flakoll (Chairman), Howard C. Anderson Jr., Joan Heckaman, Richard Marcellais, Nicole Poolman, Donald Schaible and Representatives Mark A. Dosch, Jessica Haak, Patrick Hatlestad, Bob Hunsakor, Jerry Kelsh, Ben Koppelman, Lisa Meier, David Monson, Mike Nathe, Karen M. Rohr, David S. Rust, Mark Sanford, and Margaret Wall. Representative John Wall served as a member of the committee until his death in July 2014.

STATE-LEVEL AND LOCAL-LEVEL RESPONSIBILITY FOR THE EQUITABLE AND ADEQUATE FUNDING OF ELEMENTARY AND SECONDARY EDUCATION Background

Constitutional Requirements

Article VIII, Section 1, of the Constitution of North Dakota, provides:

A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

Section 1 has been unchanged since its enactment in 1889.

Article VIII, Section 2, of the Constitution of North Dakota, follows with the directive that:

The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

Article VIII, Section 3, of the Constitution of North Dakota, requires that "instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind."

Article VIII, Section 4, of the Constitution of North Dakota, directs the Legislative Assembly to "take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific, and agricultural improvements."

History of Education Funding - The First Fifty Years

Since the 1930s, the Legislative Assembly has attempted to meet its constitutional directives by providing some level of financial assistance to school districts. In the late 1950s, the Legislative Assembly initiated a foundation aid program that was based on a uniform 21-mill county levy and a supplemental state appropriation to ensure that school districts would receive 60 percent of the cost of education from nonlocal sources.

For several years, the foundation aid program remained essentially unchanged. However, federal and state courts were beginning to address issues of spending levels for elementary and secondary education and whether those levels should be dependent upon the wealth of the school district in which a student resides. The Legislative Assembly, in an attempt to preempt such issues in North Dakota, responded by amending the foundation aid program in a way that evidenced a higher level of sophistication. Per student payments were more than doubled and weighting factors that recognized four classes of high schools were made part of the education formula. By the latter years of

the 1970s, a new funding category encompassing seventh and eighth grade students had been created and fiscal protections were instituted for school districts that experienced declining enrollment. In 1979 the Legislative Assembly appropriated \$208.4 million for the foundation aid program and added an additional \$1 million to pay for free public kindergartens.

The next major development affecting education finance occurred with the approval of Initiated Measure No. 6 at the general election in November 1980. This measure imposed a 6.5 percent oil extraction tax and provided that 45 percent of the funds derived from the tax must be used to make possible state funding of elementary and secondary education at the 70 percent level. To meet this goal, the 1981 Legislative Assembly allocated 60 percent of the oil extraction tax revenues to the school aid program. Initiated Measure No. 6 also provided for a tax credit that made the 21-mill county levy inapplicable to all but the owners of extremely high-value properties. The Legislative Assembly eliminated the 21-mill county levy and increased state aid to compensate for the revenues that would otherwise have been derived from the levy.

Discussions continued on issues of funding inequities among school districts. Districts spending similar amounts per student and having similarly assessed valuations were not levying similar amounts in property taxes to raise the local portion of education dollars. It was alleged that the system encouraged some districts to levy much smaller amounts than their spending levels and assessed valuations would seem to justify. Both the Legislative Assembly and legislative interim committees continued to evaluate the impact of weighting factors, considered the effects of increasing the mill levy equalization factor, and explored the excess mill levy grant concept. While individuals and organizations articulated the need to alter the state's education funding system, little agreement was reached beyond recommending increases in the level of per student aid.

Litigation

In 1989 several school districts and parents joined in suing the state, for the purpose of having North Dakota's system of public school financing declared unconstitutional. The complaint in *Bismarck Public School District No. 1 v. State of North Dakota* charged that disparities in revenue among the school districts had caused corresponding disparities in educational uniformity and opportunity and that those disparities were directly and unconstitutionally based upon property wealth. Four years later, a district court declared the state's system of education financing to be in violation of Article VIII, Sections 1 and 2, and Article I, Sections 21 and 22, of the Constitution of North Dakota. The decision was appealed and in January 1994, by a one vote margin, the North Dakota Supreme Court did not uphold the lower court's ruling. The Supreme Court indicated areas that were in need of legislative attention but, unlike courts in other states, it did not mandate specific legislative action.

Within a decade after the court decision, the Legislative Assembly's commitment to education funding had exceeded \$665 million. In 2003 the state was providing educational services to 99,174 public school students--50 percent of whom were being educated in the state's eight largest school districts. The remaining students were distributed across 205 other districts. Best estimates indicated that by 2013, the number of enrolled students could fall below 90,000. Against a backdrop of declining student numbers, rising expectations for services, and a belief that the available resources were both insufficient and inequitably distributed, another lawsuit was brought against the state by the school districts of Williston, Devils Lake, Grafton, Hatton, Larimore, Surrey, Thompson, United, and Valley City.

Williston Public School District No. 1 v. State of North Dakota did not go to trial. Instead, the plaintiffs and the defendants entered a settlement agreement in which it was stated that:

[I]t is desirable and beneficial for them and for the citizens of the State of North Dakota to stay this Act and provide the North Dakota Legislative Assembly the opportunity to settle, compromise, and resolve this Action in the manner and on the terms and conditions set forth in this Agreement. The terms and conditions required that the Governor, by executive order, create the North Dakota Commission on Education Improvement and submit to the Legislative Assembly in 2007 an executive budget that includes at least \$60 million more in funding for elementary and secondary education than the amount appropriated by the Legislative Assembly in 2005.

North Dakota Commission on Education Improvement

The North Dakota Commission on Education Improvement, as initially configured, consisted of the Lieutenant Governor--in his capacity as the Governor's designee, the Superintendent of Public Instruction, four members of the Legislative Assembly, four school district administrators, and three nonvoting members representing education interest groups. The commission was instructed to recommend ways in which the state's system of delivering and financing public elementary and secondary education could be improved and, within that charge, to specifically address the adequacy of education, the equitable distribution of funding, and the allocation of funding. The commission's recommendations became the basis for a new funding formula embodied in 2007 Senate Bill No. 2200.

Education Finance - 2007 Legislative Session

2007 Senate Bill No. 2200 consolidated education funding that had been previously assigned to a variety of funding categories and established new weighting factors that reflected the added costs of providing education to certain categories of students and the added costs of providing various statutorily mandated services. The new formula also factored in the variable cost of providing services and programs in small, medium, and large school districts.

To ensure a relatively consequence-free transition to the new formula, provisions were inserted to require a minimum percentage growth in the per student payment and to cap a potential windfall in a district's per student payment. The mill levy equalization factor was repealed, as were supplemental payments. In their stead, the new formula required equity payments, which accounted for deficiencies in a district's imputed taxable valuation, and special provisions that accommodated districts with abnormally low taxable valuations. The formula also included a reduction for districts that levied fewer than 150 mills during the first year of the biennium and fewer than 155 mills during the second year of the biennium.

Special education payments were increased, and the state committed to pay any amount over 4.5 percent of the average cost per student for the most costly 1 percent of special education students statewide.

The Legislative Assembly increased the availability of capital improvement loans for needy school districts, provided increased funding for new career and technical education centers and programs, and provided funding for full-day kindergarten programs. The Legislative Assembly reauthorized the North Dakota Commission on Education Improvement and directed that it focus its attention on developing recommendations regarding educational adequacy.

The 2007-09 funding level for elementary and secondary education was increased by more than \$92 million over the previous biennium.

2007-08 Interim - *Funding Schools Adequately in North Dakota: Resources to Double Student Performance*

After the 2007 legislative session, the North Dakota Commission on Education Improvement contracted with Lawrence O. Picus and Associates (Picus) to identify the resources needed to ensure an adequate education for all students. Picus began with the premise that adequacy requires all students to be taught the state's curriculum and that strategies must be deployed to use resources in ways that would double student performance on state tests over four to six years. Picus determined very early in its efforts that, while North Dakota students performed reasonably well on state tests, only 30 to 40 percent of North Dakota students performed at or above the proficiency standard measured by the National Assessment of Educational Progress. It was Picus' determination that North Dakota students would need to achieve at much higher levels if they were to be deemed fully prepared, upon high school graduation, for either college or the workplace. Picus concluded that existing state per student payments, coupled with the yield of 185 mills on 88.5 percent of the state average imputed valuation per student, amounted to approximately \$7,024 per student, and that to achieve adequacy, the expenditure per student would need to be \$7,293.

Picus also insisted that expending a specific dollar amount per student would not achieve the desired results unless the expenditures were linked to certain programmatic strategies that guaranteed the desired results. Without such linkages, the final effect would be nothing other than the existing education system at a much higher cost to taxpayers.

Picus' recommendations were centered around prototypical schools having 432 students in the elementary grades, 450 students in the middle grades, and 600 students at the high school level. Among the recommendations were the following:

- Class sizes for core courses (English language arts, mathematics, science, social studies, and foreign languages) should not exceed 15 students in kindergarten through grade 3 and should not exceed 25 students in the remaining grades;
- Specialists and elective teachers (art, music, physical education, health, etc.) should constitute at least 20 percent of the core instructional staff in kindergarten through grade 8 and at least 33 percent in the remaining grades;
- Instructional coaches for professional development should number at least 1 full-time equivalent (FTE) position for every 200 students;
- Tutors to assist students struggling academically should number at least 1 FTE position per prototypical school, plus 1 FTE position for every 125 at-risk students;
- The weight applied to new English language learners should be increased to 1.0;
- Extended-day programs should be funded;

- Each district should include \$25 per student in average daily membership to cover the cost of increasing services to gifted and talented students;
- Substitute teachers should be funded by the state at the rate of 10 days per regular teacher;
- Guidance counselors should be provided at the rate of one for each prototypical elementary school and at the rate of one for every 250 students in prototypical middle schools and high schools;
- One FTE support position should be included for every 125 at-risk students and allocated according to a school's needs--i.e., social workers, nurses, psychologists, family outreach personnel, caseworkers, or additional guidance counselors;
- Two noninstructional aides should be included for each prototypical elementary school and middle school and three noninstructional aides should be included for each prototypical high school;
- One librarian should be included for each prototypical school;
- Administrative staff should include one principal for each elementary school, one principal and one half-time assistant principal for each prototypical middle school, and one principal and one assistant principal for each prototypical high school;
- Clerical staff should include two positions for each prototypical elementary school and middle school and four positions for each prototypical high school;
- Professional development days should be extended from the current 2 days to 10 days, and \$100 per student should be included for the cost of training and related expenses;
- Technology funding should be included at the rate of \$250 per student to cover the cost of computers, software, hardware, and supplies;
- Student activity funding should be included at the rate of \$200 per elementary student and \$250 per middle school and high school student;
- Central office personnel and service funding should be included at the rate of \$600 per student; and
- School and school district maintenance and operations funding should be included at the rate of \$600 per student.

Whereas Picus' definition of adequacy would have required that all students be taught the state's curriculum and that resources be used in ways that would double student performance on state tests over the coming four to six years, the definition of adequacy used by the commission would require that all students complete a rigorous core curriculum established by the state, demonstrate proficiency on state assessments, and score above the national average on the ACT, the SAT, or WorkKeys.

2009 Legislative Session

After reviewing the Picus report, the North Dakota Commission on Education Improvement made its recommendations to the North Dakota Legislative Assembly. 2009 House Bill No. 1400 was the vehicle by which many of the policy recommendations were enacted, and 2009 House Bill No. 1013 contained many of the appropriations. The following is a summary of those recommendations and outcomes.

Commission Recommendations	Outcome
Provide education funding "adequacy" by increasing the appropriation for elementary and secondary education by \$100 million	Enacted
Provide \$10 million for deferred maintenance	\$85.6 million was appropriated for one-time maintenance grants
Increase the special education weighting factor from .067 to .07	Enacted
Establish an "at-risk" factor of .05	A factor of .25 was enacted (effective July 1, 2011)
Establish three levels of English language proficiency and assign weighting factors of .20, .05, and .02	Factors of .30, .20, and .07 were enacted
Discontinue the minimum mill levy offset, which was triggered at 155 mills	Enacted
Apply the school district ending fund balance deduct after all other calculations, except those specifically excluded by law (and if depleted, apply the deduct to transportation payments)	Enacted (by statute and through rule)
Provide that the state aid per weighted student unit in 2009-10 should be no less than 108 percent of the baseline funding per weighted student unit and no less than 112.5 percent thereafter	Enacted

Commission Recommendations	Outcome
Provide that the state aid per weighted student unit in 2009-10 should not exceed 120 percent of the baseline funding per weighted student unit and should not exceed 134 percent thereafter	Enacted
Reauthorize school district planning grants	Enacted
Reauthorize the membership and duties of the North Dakota Commission on Education Improvement	Enacted
Continue the requirement that 70 percent of new money be used to increase teacher compensation	Enacted with an exclusion for one-time state grants for maintenance
Provide that, if a district experienced an abnormal reduction in federal funds during the 2006-07 base year, that district could use a two-year average to compute its base year	Enacted
Retain the equity payments and provide that reorganized districts and those that receive property through dissolution should not have their equity payments reduced for two years	Enacted
Beginning in 2010, require one licensed tutor for every 400 students in kindergarten through grade 3, in addition to those funded through Title I and authorize the substitution of instructional coaches	Enacted (referred to as student performance strategists)
Increase staffing levels for counselors in accredited schools from 1 FTE position per 450 students to 1 FTE position per 300 students in grades 7 through 12 and authorize one-third of these positions to be filled by career advisors	Enacted
Appropriate \$390,000 to the Department of Career and Technical Education for the training, certification, and supervision of career advisors	Enacted
Appropriate \$123,618 to the Superintendent of Public Instruction for 1 FTE position to monitor career advisors	Enacted
Fund elementary summer programs for remedial mathematics and remedial reading and, beginning July 1, 2010, fund summer science and social studies courses, as well as mathematics and reading, for grades 5 through 8	Enacted
Create a merit diploma that requires three years of mathematics, three years of science, and three years of focused electives emphasizing languages, fine arts, and career and technical education for a total of 22 units	Enacted (requirements for a high school diploma)
Authorize certain students to select an optional high school curriculum that requires two years of mathematics, two years of science, and three years of focused electives, for a total of 21 units	Enacted
Provide a scholarship in the amount of \$750 for students who meet stated academic and assessment requirements	Enacted
Require a formative or an interim assessment such as the measures of academic progress for all students in grades 2 through 10	Enacted as a requirement for all students in grades 2 through 10 at least once each year
Require that a Career Interest Inventory be given to all students at least once in grades 7 through 10	Enacted as a requirement for all students at least once in grades 7 and 8 and once in grades 9 and 10
Require and fund the cost of a summative assessment before graduation	Enacted
Provide \$560,000 in state aid for the summative assessments and \$535,000 in state aid for the interim assessments	Provided additional state aid to reimburse districts for the cost of the required assessments
Require that all schools use PowerSchool by the beginning of the 2010-11 school year	Enacted without a specific date
Establish a North Dakota Early Learning Council	Enacted
Provide a factor of .20 for any four-year-old attending an approved program for at least two half days per week	Not enacted
Provide \$25,000 annually to each of the eight regional education associations and \$2.6 million via a factor of .004 for each participating student	Enacted
Adjust the special education multiplier from 4.5 to 4.0 times the state average cost of education for the 1 percent of special education students requiring the greatest expenditures and appropriate \$15.5 million	Enacted
Transfer savings from the special education contracts line item to the state aid line item at the conclusion of the 2007-09 biennium and at the conclusion of the 2009-11 biennium	Enacted
Authorize a transfer from the Bank of North Dakota to guarantee funding for special education contracts	Enacted

Commission Recommendations	Outcome
Authorize four early dismissal days beginning with the 2010-11 school year to provide for two hours of teacher collaboration	Enacted
Increase the number of instructional days from 173 to 174	Enacted
Increase the number of instructional days from 174 to 175 if resources allow	Enacted effective July 1, 2011
Add a third day for professional development activities	Not enacted
Require each school district to adopt a professional development plan and have it reviewed by the Superintendent of Public Instruction and a professional development advisory committee	Enacted
Appropriate \$219,032 to the Superintendent of Public Instruction for individuals who will review and propose improvements to the professional development plans, manage instructional coaching grants, and oversee compliance with curricular requirements	Enacted
Provide \$2.3 million to the Education Standards and Practices Board for the mentoring of first-year teachers	Enacted
Provide \$500,000 for three pilot programs pertaining to model instructional coaching	Not enacted
Provide transportation funding at 81 cents per mile for large schoolbuses, 42 cents per mile for small school vehicles, and 22 cents per ride for students transported	Enacted at funding rates of 92 cents per mile for large schoolbuses, 42 cents per mile for small school vehicles, and 24 cents per ride for students transported
Increase transportation grants by \$5 million	Enacted with a \$10 million increase for transportation grants plus an additional \$5 million, depending on the forecasted ending fund balance

2009-10 Interim

At the conclusion of the 2009 legislative session, the North Dakota Commission on Education Improvement began its third and final interim effort. The makeup of the commission had been statutorily changed to remove the school district business manager and to add the Director of the Department of Career and Technical Education as a voting member. In addition, the list of nonvoting members, which had previously included representatives of the North Dakota Council of Educational Leaders, the North Dakota Education Association, and the North Dakota School Boards Association, was expanded to now include the President of a private four-year institution of higher education, the owner or manager of a business, and the Commissioner of Higher Education.

Although the statutory charge of the commission was still to address educational adequacy, the equitable distribution of state education funds, and the allocation of funding responsibility, the commission approached its third and final effort with a focus on fine-tuning the education formula that had been enacted during the two prior legislative sessions.

2011 Legislative Session

As had its predecessors, the 2011 Legislative Assembly incorporated the recommendations put forth by the North Dakota Commission on Education Improvement through the enactment of 2011 Senate Bill No. 2150 and 2011 Senate Bill No. 2013. The amount appropriated for the grants - state school aid line item was \$918,459,478. In addition, the Legislative Assembly provided \$16 million for special education contracts, \$48.5 million for transportation, and \$304 million for miscellaneous projects in the grants - other grants line item.

Pursuit of Property Tax Relief

While educational equity and adequacy continued to be dominant legislative concerns, additional time and attention was now being given to the populace's growing desire for property tax relief. In the 2007 session, the Legislative Assembly enacted property tax relief through the use of income tax credits and transferred \$115 million from the permanent oil tax trust fund to the state general fund in order to offset anticipated revenue losses resulting from the credits.

Due to inherent administrative difficulties resulting from the use of income tax credits for property tax relief, the 2009 Legislative Assembly instituted a statewide system of property tax relief through state-funded school district mill levy reductions. The biennial cost of the program was \$295 million. By 2011, the program's price tag had risen to \$341.7 million and there still existed concerns about the overall effectiveness of the mill levy reduction grant program as a mechanism for property tax relief, concerns about the program's potential to result in the rededication of locally generated revenues to other purposes, and concerns about long-term sustainability.

A New Education Funding Formula - 2013 House Bill No. 1013

When the 2013 Legislative Assembly convened, the principal education funding package placed before it again came with the imprimatur of the Governor. Introduced as House Bill No. 1319, the new proposal for funding elementary and secondary education was defeated on the morning of the session's 80th and final day. Later that evening, the content was attached as an amendment to House Bill No. 1013 and enacted.

The amendments added to House Bill No. 1013 provided for a district's weighted student units to be multiplied by \$8,810 during the first year of the biennium and \$9,092 during the second year. Minimum and maximum payment levels were established using a statutorily defined baseline funding level.

Until the enactment of House Bill No. 1013, school districts had the authority to levy mills for a plethora of purposes other than the general fund. These included board and lodging for high school students; the teachers' retirement fund; tuition; special education; an insurance reserve fund; final judgments; Social Security; the rental or leasing of real property; unemployment compensation benefits; asbestos removal; remodeling required by the Americans with Disabilities Act; remodeling required by the State Fire Marshal; alternative education; career and technical education; schoolbuses; school library services; two-way communications; kindergartens; interdistrict cooperative agreements; and the establishment, maintenance, and operation of a public recreation system.

House Bill No. 1013 consolidated the various levy authorities and provided that a school district could levy:

- A tax not exceeding the amount in dollars that the school district levied for the prior year, plus 12 percent, up to a levy of 70 mills on the taxable valuation of the district, for any purpose related to the provision of educational services;
- No more than 12 mills on the taxable valuation of the district, for miscellaneous purposes and expenses;
- No more than three mills on the taxable valuation of the district for deposit into a special reserve fund; and
- No more than the number of mills necessary, on the taxable valuation of the district, for the payment of tuition.

The limitations listed above were not extended to mills levied for a building fund or for the payment of the principal and interest on bonded debt of the district. As a precondition of receiving state aid, school districts that were authorized to maintain excess levies before the 2009 taxable year were required to reduce their levies by 115 mills and districts that were authorized to maintain excess levies during or after the 2009 taxable year were required to reduce their levies by 40 mills.

The dollar amounts by which a district's weighted student units were to be multiplied, in order to arrive at a funding level for the 2013-15 biennium (\$8,810 during the first year of the biennium and \$9,092 during the second year), were derived through the application of an inflationary increase to the "adequate" funding level that Picus had proffered, as part of its final report to the North Dakota Commission on Education Improvement in 2008. Given the intervening five years and changes in the state's economic and demographic circumstances, the Legislative Assembly deemed it appropriate to seek a review and clarification of state-level and local-level responsibility for the equitable and adequate funding of elementary and secondary education.

To meet its study directive, the interim Education Funding Committee asked Picus to review its earlier efforts and conduct a recalibration using an evidence-based model and the most recent data available.

2013-15 Interim - Recalibrating North Dakota's Per Student Number for the School Foundation Program

Evidence-Based Model

The main principle behind the state's school funding formula, as articulated by Picus, is that every elementary and secondary student in North Dakota should have a base of financial support that allows the student's school district to provide a quality education. This should be the case regardless of where the student lives or how much taxable valuation is available to the school district.

To determine what that level of financial support should be, Picus uses an evidence-based model that relies on reviews of research pertaining to the effects of major elements or strategies on student achievement and studies of schools and school districts that have dramatically improved student performance over a period of four to six years. Picus' premise is that if school districts expend the recommended amounts to support the various student improvement strategies embedded in the model, the result will be large improvements in the academic achievements of their students.

Picus' 10 strategies for student improvement are:

- Analysis of student data for purposes of understanding performance issues and achievement gaps;
- Setting high goals with respect to that percentage of students who are able to achieve proficiency on state assessments;
- Utilization of a rigorous curriculum and implementation of instructional practices that deliver the curriculum;
- Significant investment in teacher training, including the provision of intensive summer institutes and the employment of instructional coaches;
- Provision of extra help for struggling students through individual or small group tutoring, extended-day programming, summer school, and language development for all English language learners;
- Limitations of 15 students per class, at least in kindergarten through grade 3;
- Restructuring of the school day to allow for more effective instructional delivery through the use of multiage elementary classrooms, block scheduling, and double periods, together with protection of instructional time for core subjects such as reading and mathematics;
- Employment of strong leaders who utilize data driven decisionmaking and focus on instructional improvement;
- Professional school cultures that allow for ongoing discussions regarding instruction and instructional improvement and that encourage teachers to take responsibility for the performance of their students; and
- Use of external professionals to provide staff training, assist in the adoption and implementation of research-based curricula, and work with regional education associations and the state governing agency.

In addition to advocating the use of 10 strategies for student improvement, the evidence-based model articulates the resources needed by prototypical elementary, middle, and high schools, as well as by prototypical districts. A prototypical elementary school consists of 450 students in kindergarten through grade 5. A prototypical middle school consists of 450 students in grades 6 through 8 and a prototypical high school consists of 600 students in grades 9 through 12. A prototypical district of 3,900 is used to identify district resources. The model must utilize specific sizes for the prototypes to indicate the relative level of resources in the schools. Although the model is based on such prototypes, Picus underlines that this configuration in no way implies that North Dakota should adopt any new policy on school or district size.

Picus Report - General Recommendations

Full-day kindergarten	<p>Research shows that full-day kindergarten, particularly for students from low-income backgrounds, has significant, positive effects on student learning in the early elementary grades. Kindergarten students are therefore counted as 1.0 students for the state aid formula.</p> <p>The staff FTEs that these students generate are added to the core teacher counts and then used to generate elective teacher positions, professional development, and other schoolwide resources. (The \$7,293 figure from 2008 included this element.)</p>
Core teachers	<p>Core teachers are the grade-level classroom teachers in elementary schools and the mathematics, science, language arts, social studies, world language, and advanced placement teachers in middle schools and high schools.</p> <p>Using the prototypical school sizes, an elementary school would require 26 core teachers, a middle school would require 18 core teachers, and a high school would require 24 core teachers. Additional teaching staff are accounted for under other categories. (The \$7,293 figure from 2008 included this element.)</p>
Elective teachers	<p>In addition to the core subjects, schools need to provide a solid well-rounded curriculum that includes art, music, library skills, career-technical courses, and physical education. Both core teachers and elective teachers need time within the regular school day to work collaboratively and engage in job-embedded professional development. Providing every teacher one period a day for collaborative planning and focused professional development requires an additional 20 percent allocation for elective teachers. Using this elective staff allocation, every teacher--core and elective--would teach 5 of 6 periods during the day, and have one period for planning, preparation, and collaborative work.</p> <p>Resources for elective teachers are provided as a percentage of core teachers, at the rate of 20 percent for elementary teachers, 20 percent for middle school teachers, and 33.3 percent for high school teachers. (The \$7,293 figure from 2008 included this element.)</p>

Instructional coaches	Instructional coaches coordinate instructional programming and provide the critical ongoing coaching and mentoring that the professional development literature shows is necessary for teachers to improve their instructional practices. The recommended ratio is one instructional coach for every 200 students. (The \$7,293 figure from 2008 included this element.)
Tutors	The most powerful and effective extra help strategy to enable struggling students to meet state standards is individual tutoring provided by licensed teachers. Resources are provided for one licensed teacher-tutor position for every prototypical school, plus one such position for every 125 at-risk students. Individuals in these positions are also provided with additional days for professional development and substitute days. (The \$7,293 figure from 2008 included this element.)
Extended-day programs	Struggling students at the elementary, middle, and high school levels are likely to benefit from afterschool or extended-day programs, even if receiving Tier 2 interventions during the regular school day. Extended-day programs are created to provide academic support, as well as to provide a safe environment for children and adolescents, after the school day ends. Resources are provided for one teacher position for every 30 at-risk students, or 3.33 FTEs per 100 such students. The position is paid at the rate of 25 percent of the position's annual salary--i.e. sufficient to pay a teacher for a two-hour extended-day program, five days per week. This formula equates to one teacher position for every 120 students who are eligible for free or reduced lunches. These resources could be used for a different mix of teachers and other noncertified staff, with teachers providing at least one hour of homework help or afterschool tutoring. These positions are included in the funding estimates for professional development days and substitute days.
Summer school	Many students need extra instructional time to achieve proficiency. Summer school programs provide struggling students with the additional time and help they need to meet standards and earn academic promotion from grade to grade. Resources are provided for one teacher position for every 30 at-risk students, or 3.33 FTEs per 100 such students. The position is paid at the rate of 25 percent of the position's annual salary and includes time for planning, preparation, and collaborative work. This formula equates to one teacher position for every 120 students who are economically disadvantaged. These positions are included in the funding estimates for professional development days and substitute days.
English language learners	English language learners need assistance to learn English, in addition to instruction in the regular content classes. This can require some combination of small classes, English as a second language classes, professional development for teachers to help them teach sheltered English classes, and reception centers for districts with large numbers of English language learners who arrive throughout the school year. Resources are provided for one teacher position for every 100 English language learners. Students who are both English language learners and at risk, as defined by eligibility for free or reduced lunches, are able to qualify for multiple resources, including tutoring, extended-day programs, and summer school, in addition to the per student payment. These positions are included in the funding estimates for professional development days and substitute days.
Special education	Providing appropriate educational services for students with disabilities, while containing costs and avoiding over-identification, presents several challenges. Many mild and moderate disabilities, particularly those associated with students learning to read, are correctable through strategic early interventions, including effective core instruction and individual tutoring. Using a census approach to funding special education services for students with disabilities in the high incidence - lower cost categories, resources are provided for one teacher and one aide position for every 150 regular education students. This results in three teachers and three aides for each prototypical elementary and middle school, and four teachers and four aides for each prototypical high school. (The \$7,293 figure from 2008 included this element.) Resources are also provided for state reimbursement of 100 percent of the costs for children with severe disabilities. This generally would cover the top 2 percent of students with disabilities, less federal Title VI(b) funds that are provided for these students.

Alternative schools	<p>A small number of students have difficulty learning in the traditional school environment. These students tend to have some combination of significant behavioral, social, and emotional issues, often including alcohol or drug addictions. Such students often do much better in small alternative learning environments.</p> <p>Resources are provided for one assistant principal position plus one teacher position for every 7 FTE students in an alternative school program. In addition, resources are provided for instructional materials, technology, and central office and maintenance and operations.</p>
Gifted and talented students	<p>Developing the potential of gifted and talented students includes efforts to discover the hidden talents of low-income students and culturally diverse students. It also requires curricular materials designed specifically to meet the needs of gifted and talented students, accelerated curricula, and special training so that teachers can work effectively with such students.</p> <p>Resources are provided at the rate of \$25 per regular education student. (The \$7,293 figure from 2008 included this element.)</p>
Substitute teachers	<p>Resources for substitute teachers are included at the rate of 5 percent of all teacher and instructional coach positions. This provides approximately 10 days per teacher, based on a 192-day teacher contract.</p> <p>(The \$7,293 figure from 2008 included 10 days, but at a rate of \$125 per day, which was below the average daily rate.)</p>
Student support and family outreach	<p>Schools need a student support and family outreach strategy. In fact, the comprehensiveness of the strategy is directly related to the degree of disadvantage within the student body.</p> <p>Resources are provided for one guidance counselor for every 450 elementary school students, one guidance counselor for every 250 students in grades six through 12, and one nurse for every 750 students. In addition, resources are provided for one student support position for every 125 at-risk students. These staffing provisions enable districts and schools to allocate guidance counselors, nurses, psychologists, and social workers, in a way that best addresses the needs of their students. (The \$7,293 figure from 2008 included this element for each prototypical school. The nurse position is an addition.)</p>
Supervisory aides	<p>All schools need staff for responsibilities that include lunch duty, before and after school playground supervision, bus duty, etc. Covering these duties generally requires an allocation of supervisory aides at a rate of approximately 2 FTE positions for a school of 400 to 500 students.</p> <p>Resources are provided for 1 FTE supervisory aide for every 225 elementary and middle school students and 1 FTE supervisory aide for every 200 high school students. (The \$7,293 figure from 2008 included this element.)</p>
Librarians	<p>Most schools have a library, and the staff resources must be sufficient to operate the library and to incorporate appropriate technologies into the library system. In addition, some elementary librarians could teach students for some of the day as part of special subject offerings.</p> <p>Resources are provided for one librarian for every prototypical elementary school, middle school, and high school. (The \$7,293 figure from 2008 included this element.)</p>
Principals and assistant principals	<p>Resources are provided for one principal for each prototypical elementary school, middle school, and high school and for one assistant principal for every 900 middle school students and every 600 high school students. (The \$7,293 figure from 2008 included an additional 0.5 assistant principal position for middle schools.)</p>
School site secretarial staff	<p>Every school site needs secretarial staff for clerical and administrative services.</p> <p>Resources are provided for 2 FTE clerical positions for every prototypical elementary and middle school and 3 FTE clerical positions for every prototypical high school. (The \$7,293 figure from 2008 included this element.)</p>
Professional development	<p>Improving teacher effectiveness through high quality professional development is arguably as important as all of the other resource strategies that have been identified. Effective professional development should be school-based, job-embedded, and focused on the curriculum being taught, rather than structured as a one-day workshop.</p> <p>Resources are provided for 10 days of student-free time for training, which is an increase of approximately 8 days. Resources are provided for training at the rate of \$100 per student. These resources are in addition to those for instructional coaches and to those that provide planning and collaborative time periods for teachers. (The \$7,293 figure from 2008 included these elements.)</p>

Technology	<p>Schools need to embed technology in instructional programs and school management strategies. Many states already require that students be technologically proficient and that they take some online courses, as a prerequisite to high school graduation.</p> <p>Today, there are multiple online education options--from state-run virtual schools to those created by private sector companies. "Blended" instructional models have also emerged. These programs infuse technology and online teaching into regular instruction, provide more one-on-one assistance to students, and allow teachers to assume more of a coaching role. While these technology systems work very well for many students, infusing technology into the curriculum does have associated costs for computer hardware, networking equipment, software, training, and maintenance and repair.</p> <p>Resources are provided at the rate of \$250 per K-12 student. (The \$7,293 figure from 2008 included these elements.)</p>
Instructional materials and formative assessments	<p>The type and cost of textbooks and other instructional materials differ across elementary, middle school, and high school levels. Textbooks are more complex and more expensive in the upper grades. The need for up-to-date textbooks and instructional materials is paramount. Newer materials contain more accurate information and incorporate the most contemporary pedagogical approaches. Adoption cycles allow districts to upgrade their texts on an ongoing basis instead of allowing these expenditures to be indefinitely postponed.</p> <p>Resources are included for library texts and electronic services at the rate of \$20 for each elementary student, \$20 for each middle school student, and \$25 for each high school student. Resources are included for textbooks and consumables at the rate of \$120 for each elementary and middle school student, and \$150 for each high school student. Resources for formative assessments are included at the rate of \$30 per student. Resources are also included at the rate of \$10 per student for supplemental instructional and other materials utilized in tutoring programs, extended-day programs, summer programs, and English language learner programs. (The \$7,293 figure from 2008 included these elements.)</p>
Student activities	<p>Elementary, middle, and high schools typically provide an array of noncredit producing afterschool programs, including clubs, bands, sports, etc. Teachers supervising or coaching these activities usually receive small stipends for these extra duties.</p> <p>Resources for student activities are included at the rate of \$200 for each elementary and middle school student and \$250 for each high school student. (The \$7,293 figure from 2008 included these elements.)</p>
Central office staffing	<p>Although the research basis for staffing school district central offices is relatively limited, there are certain presumed staffing ratios and expenses associated with the superintendent's office; the business office; the area of curriculum and support--i.e., the assistant superintendent for instruction, the director of student services, the director of special education, and the director of assessments and evaluation; the area of technology, including the director of technology and computer technicians; and the director of operations and maintenance. Secretarial support is also required for the aforementioned positions or areas.</p> <p>Resources are included at the rate of \$644 per student. (The \$7,293 figure from 2008 included these elements.)</p>
Operations and maintenance	<p>Operations and maintenance includes the cost of custodians, maintenance staff, and groundskeepers, as well as the cost of materials and supplies to support these individuals and their functions.</p> <p>The estimate for operations and maintenance was \$757 per student. Because this differed substantially from the actual 2012-13 costs, resources were provided at the actual rate of \$1,167 per student. (The \$7,293 figure from 2008 included an operations and maintenance figure derived from actual expenditures in 2006-07.)</p>

Additional Considerations

To account for variations in the calculation of fringe benefit rates that existed during the original study in 2008 and to account for the mandate that school districts pay a higher percentage of salaries to fund teacher pensions, Picus opted to build in a cost-based fringe benefit rate that included:

- 7.65 percent for FICA and Medicare;
- 2.35 percent for unemployment, disability, and miscellaneous issues;
- 10.75 percent for the district portion of the state pension funding for 2013-14, which represents an increase from the 8.75 percent used in 2008; and

- 12.75 percent for the district portion of the state pension funding for 2014-15, to accommodate the mandated state increase for that year.

The determination of costs associated with school district supported health care benefits became complex because some districts are self-insured. Other districts have differing policies for single employees, for those seeking to cover only themselves and a spouse, and for those seeking family coverage. Some districts include dental benefits, some include vision benefits, and some include both dental and vision benefits. Ultimately, the approach taken involved superimposing the policy parameters for health care benefits provided to state government employees.

Fringe benefit rates were therefore calculated at 67 percent for classified staff and at 45 percent for professional staff. Because those rates reflected 2013-14 expenditures, Picus suggested that both figures should be increased by an additional two percentage points for 2014-15, to accommodate known increases.

For salaries, Picus opted to utilize the actual 2012-13 levels as part of the recalibration process, even though such levels were less than what would have been achieved using various inflationary indices. However, it was stated that, given the information school districts and the state already had about health care cost increases and the recent trending of North Dakota teacher salaries across the state, it appeared both cost levels would exceed the consumer price index for 2014-15.

Recalibrated Payment Levels - Picus Recommendations

Based on all available information and assumptions, Picus recommended that the recalibrated payments should be increased from the 2013-15 levels of \$8,810 and \$9,092 to \$9,347 and \$9,442. The composition of the recalibrated payments is reflected as follows:

Programmatic Element	Dollars Per Student
Core teachers	\$3,375
Elective teachers	790
Instructional coaches	398
Counselors	245
Nurses	93
Core tutors (tier 2 interventions)	144
Special education teachers	467
Special education aides	209
Supervisory aides	145
Substitute teachers	256
Librarians	147
Principals	231
Assistant principals	74
School secretaries	197
Dollar per student resources	
Professional development training	100
Gifted and talented services	25
Technology	250
Instructional materials	149
Short cycle/formative assessments	30
Student activities	213
Central office	644
Operations and maintenance	1,167
Total (may not equal total of all elements due to rounding)	\$9,347

Recalibrated Weighting Factors - Picus Recommendations

Based on all available information and assumptions, Picus recommended that the recalibrated weighting factors should be those reflected as follows:

Purpose	Recommended Factor
At-risk students - Use unduplicated count of students eligible for free or reduced lunch and English language learners	Increase to 0.20
English language learners	0.07 for English language learners at Levels I, II, and III if the at-risk factor of 0.20 is adopted. Otherwise, retain the current factors of 0.30, 0.20, and 0.07
Summer school	Retain current factor of 0.60
Alternative middle schools	Retain current factor of 0.15
Alternative high schools	Retain current factor of 0.25 for high schools, but include students in grades 9-12, as well as students up to age 21

Purpose	Recommended Factor
Migrant summer school	Eliminate the current factor of 1.0 but include migrant summer students in the regular summer school program count at a factor of 0.60
Home education students	Eliminate
Cross-border attendance students	Eliminate
PowerSchool	Retain current factor of 0.003
Regional education agencies	Retain current factor of 0.002
Early childhood special education	Retain current factor of 0.17
Special education	Retain current factor of 0.082 and include the recommended special education staffing resources
Small district adjustment	Retain current school district size weighting factors, but consider increasing the factors for school districts having fewer than 125 students

School District Response to Picus Report and Recommendations

School district officials and representatives told the committee that while some of the recommendations included in the original Picus study published in 2008 were faithfully implemented, others were found not to be a "good fit" for the students or the state of North Dakota. As a group, school district officials and their representatives affirmed their commitment to doing whatever it takes to make a difference for students. They recognized the need for accountability but expressed their concern that accountability not focus on or result in placing blame on teachers and administrators for not doing their jobs. It was suggested that accountability should require "change agents that foster the intrinsic motivation of teachers and students, change agents that engage educators and students in continuous improvement in instruction and learning, change agents that inspire collective or team work, and change agents that affect all teachers and students." It was further suggested that public education in general should be driven by capacity building, rather than accountability in the form of test results and teacher evaluations; collaborative work or group solutions, rather than the promotion of individual teachers and leadership quality; quality of instruction, rather than the latest technology; and systemic strategies, rather than fragmented strategies.

Within this framework, educational leaders raised concerns that in implementing Picus' evidence-based model for student achievement, school districts would be required to eliminate a large number of individuals who teach elective courses. The committee was told that this reduction in personnel would even extend to instructional aides, special education aides, and certain core teachers. On the other hand, the committee was told, if school districts would be expected to actually increase personnel such as instructional coaches, support staff, core teachers, nurses, and supervisory aides, achieving that end would take a period of time.

One of the more significant concerns came about as a result of the recommendation for smaller class sizes, particularly at the elementary level. It was perceived that this would generate a shift in capital from the high school to the elementary level and result in exponential construction costs, due to the need for additional classrooms.

As for professional development, the committee was told that each school district should be permitted to articulate its own needs and that those needs should be met through job-embedded learning and not necessarily through a multiday summer academy or institute.

Finally, the committee was told that there is support for the funding of aides, principals and assistant principals, central office administration, and operations and maintenance, as well as for instructional coaches, tutors, substitute teachers, librarians, and secretarial staff. If determined to be appropriate and advantageous and if well-funded, there would be support for extended-day programs, summer school programs, English language learner programs, gifted and talented programming, and alternative schools.

Committee Consideration

The committee determined that it could not and would not recommend an imposition of the Picus evidence-based funding model on the school districts of this state. Philosophically, however, the committee noted that Picus presented an educational framework and a cost for delivering educational services within that framework. If that framework is not to be adopted and if there are no requirements that school districts adhere to the components of that framework, then the end result, it was said, could best be described as nothing more than a funding number plus local flexibility. The path to improved results remained nebulous for some.

Other committee members viewed the element of local flexibility as indisputably necessary to the provision of education in North Dakota, arguing that what works in a large urban school district is not necessarily that which will ensure success in a small rural school district.

Committee Recommendation

The committee recommends a bill [15.0291.04000] relating to the funding of elementary and secondary education. The bill sets per student funding rates of \$9,482 for the first year of the biennium and \$9,766 for the second year. The rate of \$9,482 was derived using the Picus recommendation of \$9,442, subtracting \$236, which represents the eight days of professional development that Picus had recommended, but which the committee did not require, and then increasing the remainder by 3 percent to arrive at \$9,482. A second year increase of 3 percent brings the total to \$9,766.

The bill makes available another \$125 million for school construction, in addition to the \$50 million that is currently loaned from the coal development trust fund and the \$150 million that is currently loaned from the strategic investment and improvements fund. If new requests exceed \$125 million, the bill provides for an additional \$100 million to be made available. The source for the contingent funding is also the strategic investment and improvements fund.

The bill adds a third day of professional development, beginning with the 2016-17 school year. While the first two days of professional development are included within the funding formula, \$22 million is made available for additional payments to those school districts that offer a third day of professional development, beginning with the 2015-16 school year. The payment is provided through a factor of 0.01. The fourth and fifth days would each generate factors of 0.005. Payments for professional development days are to be forwarded only upon the activities being approved by the Superintendent of Public Instruction.

The bill increases the factors for English language learners to 0.40 and 0.27, from the current 0.30 and 0.20, for Levels I and II. The factor for Level III remains at 0.07. The impact to the formula is estimated to be \$770,000.

Recognizing that certain school districts are required to address the needs of a disproportionate number of English language learners, the bill provides for a \$2.5 million grant. The grant is limited to the six school districts that have the largest number of Level I and Level II English language learners. Money provided through the grant must be used to enhance the services provided to such students through the hiring of additional teachers, interpreters, and social workers and through the provision of other ancillary support services approved by the Superintendent of Public Instruction.

The bill funds a percentage of at-risk students in kindergarten through grade 3 using a factor of 0.20 and a percentage of at-risk students in grades 4 through 12 using a factor of 0.025. This creates a \$45 million impact. Increasing the funding level for regional education associations from 0.002 to 0.0022 comes at a cost of approximately \$425,000. Alternative middle school funding is retained using a factor of 0.15. Alternative high school funding is retained using a factor of 0.25, with the clarification that eligibility extends to all students in grades 9 through 12, not just to those who have reached the age of 16.

When totaled, the recommended commitment to elementary and secondary education exceeds \$2,038,000,000. The committee acknowledged that while this is the largest education funding amount in the history of the state, it is designed to focus resources on critical elements that improve student performance.

MISCELLANEOUS REPORTS

The committee received statutorily required reports from the Superintendent of Public Instruction regarding the financial condition of schools, school district employee compensation, student scores on recent statewide tests of reading and mathematics, requests for and waivers of accreditation rules, requests for and waivers of statutory requirements governing instructional time for high school courses, and the development, delivery, and administration of comprehensive early childhood care and early childhood education in this state. The committee also received a report from the Statewide Longitudinal Data System Committee regarding the status of the plan for a longitudinal data system.