

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### EDUCATION COMMITTEE

Tuesday, July 11, 2006  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Layton W. Freborg, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Layton W. Freborg, Robert S. Erbele, Michael A. Every, Tim Flakoll, Gary A. Lee, Harvey Tallackson; Representatives C. B. Haas, Gil Herbel, Bob Hunskor, Dennis Johnson, RaeAnn G. Kelsch, Lisa Meier, David Monson, Phillip Mueller, John Wall

**Members absent:** Senator Tom Seymour; Representatives Stacey Horter, Mike Norland, Steven L. Zaiser

**Others present:** See Appendix A

**It was moved by Representative Haas, seconded by Senator Erbele, and carried on a voice vote that the minutes of the previous meeting be approved.**

#### COMMISSION ON EDUCATION IMPROVEMENT - UPDATE

Chairman Freborg called on Lt. Governor Jack Dalrymple to present testimony regarding the efforts of the North Dakota Commission on Education Improvement. Lt. Governor Dalrymple said the commission members have a great deal of knowledge and experience regarding education finance. He said there is enough time during the interim to work on the proposed formulas and that is often not the case during a legislative session. He said four legislators sit on the commission--Senators Tim Flakoll and David O'Connell and Representatives RaeAnn G. Kelsch and David Monson. He said other commission members include Mr. Warren Larson, Superintendent, Williston Public School District; Mr. Jack Maas, Superintendent, Grafton Public School District; Mr. Martin Schock, Superintendent, Elgin/New Leipzig Public School District; Mr. Mark Lemer, Business Manager, West Fargo Public School District; and Dr. Wayne Sanstead, Superintendent of Public Instruction.

Lt. Governor Dalrymple said the commission is the result of the lawsuit settlement. He said the plaintiffs agreed to stay the lawsuit if there would be an effort to formulate a plan under which at least \$60 million would be put into education and that a commission would be formed to work on equity and adequacy issues.

Lt. Governor Dalrymple said the formula on which the commission is working will include all of the normal funding programs, except that transportation

will not be a part of the base funding proposal. He said transportation is not an education program and it does not involve equity or adequacy. He said if there is an increase in tuition apportionment, the increase will also be part of the \$60 million.

Lt. Governor Dalrymple said to date the commission has taken no votes and has not yet committed anything to writing. He said he can talk about where he believes the commission is headed. He said a draft report will be presented at the commission's meeting in Devils Lake on August 9. He said he would like to meet with the interim Education Committee in September 2006 to discuss the draft and receive input.

Lt. Governor Dalrymple said this will be an entirely new formula designed to provide equity to all school districts that have been disadvantaged by having an insufficient tax base to deliver the educational program that everyone deserves.

Lt. Governor Dalrymple said there will no longer be a mill deduct. He said the deduct has some irreversible problems, including the fact that it is and has been very unpopular. He said when school district superintendents were surveyed, 90 percent thought the mill deduct should be discontinued as an equity measure. He said it is perceived to be a tax on wealthy districts, i.e., on districts that enjoy good or excellent valuation. He said the poor districts do not like the mill deduct because it does not go far enough toward equalization. He said now we equalize 38 mills and the law provides for an increase of 3 mills per year. He said we have so far to go toward equalization that we cannot do it within a reasonable time. He said the commission has determined that the mill deduct is not a viable method by which to achieve equity.

Lt. Governor Dalrymple said the supplemental equity formula will also be removed. He said it has not been adequately funded and it only assists 23 districts. He said it also relies on a district's spending per student. He said although spending per student is a measure of wealth, it is not as good as taking direct revenue per student into account. He said a new equity formula will be implemented.

Lt. Governor Dalrymple said that within the new equity formula, a district's valuation per student would be compared to the statewide average. He said if a district's valuation per student is lower than the state average, it would be multiplied by the district's base average daily membership. He said the missing

valuation would be multiplied by the lower of the district's general fund mill levy or 185 mills. He said the amount owed by the state would be reduced by any mineral income or tuition income received in cash. He said the amount of the payment would be capped by the revenue that is generated by the district through its own local effort. He said it appears that this formula would assist 43 districts and it would bring every school district in the state up to the average valuation per student, as adjusted for outside wealth. He said he believes this will close the equity question and then we will be able to look at the overall adequacy of funding in our state system.

Lt. Governor Dalrymple said the main formula will include a per student distribution. Nationwide, he said, courts have held that there is nothing inherently wrong or unfair with a per student payment. He said we will, however, use weighting factors for all the programs we have in statute, including the per student distribution of special education, alternative high schools, early childhood special education, summer school, programs for English language learners, home-based student supervision, migrant programs, and all additional special education programs. He said all of these programs will be given a per student factor. He said that will provide an adjusted average daily membership. He said that by going to a single factor, we will create simplicity, transparency, and flexibility for future changes in program funding.

Lt. Governor Dalrymple said this allows us to reflect the true cost of educating our various students within the funding formula. He said the factors that will be proposed will represent the funding commitment that is currently in the formula.

Lt. Governor Dalrymple said the special education consultant's report has just been issued. He said the advice of the nation's best expert in special education funding is compatible with the commission's proposal. He said the expert believes that 75 percent of the special education funding can continue to be distributed on an average daily membership basis. He said the consultant is advising that the threshold for the higher-cost students should be increased and that the state should guarantee all excess cost payments.

Lt. Governor Dalrymple said the commission has discussed and is leaning in the direction of doing something to reduce the number of special education units. He said we currently have 31 special education units. He said there would be more efficiency in having fewer units and more equity in the pooling of funds. He said this would help make the delivery of special education compatible with other programs.

Lt. Governor Dalrymple said our English language learner program can easily be converted to a factor in the base formula. He said there is an issue with the definition of English language learners. He said the original intent was to aim the funding at refugees, immigrants, and migrants. He said the program is expanding beyond that and, as a cost measure, we may assume that the definition will be clarified.

Lt. Governor Dalrymple said capital construction was also determined by the commission to be an equity issue. He said there are a number of school districts that, because of their low valuation, will have problems replacing facilities or building new facilities. He said the program that is in place today should be targeted to the poor school districts with the very poor schools perhaps receiving additional state assistance. There has also been discussion of adding a feature that would encourage the long-term consolidation of districts. He said districts that are facing consolidation should plan their future together and that includes addressing future facility needs. He said the construction or improvement of schools should be facilitated by the state through a significant interest rate reduction.

Lt. Governor Dalrymple said educational associations governed by joint powers agreements seem to bring out many ideas and some disagreement. He said the commission is looking at increasing the state's commitment to educational associations to \$3 million. He said there is also discussion about whether some of that should be directed toward administrative costs. He said people are generally in favor of educational associations governed by joint powers agreements and see their potential but they are reluctant to move the associations along too quickly. He said they believe the associations will succeed only if the school district superintendents pick up the ball. He said having a mechanism by which smaller districts can provide certain services and opportunities is a key to providing equity.

Lt. Governor Dalrymple said the area of career and technical education needs reform but at this time it will not be merged with the main formula. He said the commission will look at ways to increase the regionalization of career and technical education. He said we need to reach more students. He said the commission is likely to suggest one or two pilot programs in a part of the state that does not now have such programs available.

In response to a question from Representative Herbel, Lt. Governor Dalrymple said the \$60 million is over and above the current spending level. He said an aggregate run has not been done. He said a significant portion of the \$60 million will still be available for use as an increase in foundation aid. He said with no mill deduct and that level of funding increase, we will be able to wind up in a place where almost every district has a plus in its column. He said if a school district has an extraordinary loss of students, that may still show up. However, he said, that is neither an equity nor an adequacy issue. He said the commission has no special proposal for that situation.

In response to a question from Representative Mueller, Lt. Governor Dalrymple said the commission is attempting to place districts in a peer group. He said some of the small districts have very high valuation per student or outside wealth on which they

rely to provide education. He said the change, as a district moves from one level to another, is incremental--down to the 100th. He said since most districts are losing students, the direction that the commission will move is toward a higher weighting factor.

In response to a question from Representative Mueller, Lt. Governor Dalrymple said the commission is not focusing on the property tax issue per se. He said the commission is pursuing equity and adequacy. However, he said, when \$60 million is put into the spending formula and when it is targeted to those districts that have had the most challenge in raising money, there will be some tax relief for districts. He said the property tax issue is a separate issue from the adequacy and equity funding discussion. He said if a decision were made to provide more property tax relief, that would be compatible with what is being proposed by the commission. However, he said, it should be looked at as a separate policy question.

In response to a question from Representative Haas, Lt. Governor Dalrymple said the supplemental payment plan was not adequately funded. It too had shortcomings and therefore an entirely new proposal was created. He said the fiscal note for the new equity funding could be as much as half of the amount under consideration.

In response to a question from Senator Lee, Lt. Governor Dalrymple said any increase in tuition apportionment will be considered to be part of the \$60 million. He said the plaintiff districts have offered to include the anticipated \$2 million increase as part of the \$60 million. He said the commission believes that tuition apportionment should be distributed on a weighted average daily membership basis. He said the Legislative Assembly has the authority to distribute the income from the common schools trust fund any way it chooses.

In response to a question from Senator Lee, Lt. Governor Dalrymple said nonpublic school students will not be counted in determining tuition apportionment payments.

In response to a question from Representative Haas, Lt. Governor Dalrymple said property tax reliance and school financing payments are related. He said if property tax is to be replaced through a greater state effort, he believes that can be done over the next three bienniums without having to increase state taxes. He said with the growing economy in North Dakota, given a modest amount of time, we can provide the funds that are necessary.

In response to a question from Representative Delmore, Lt. Governor Dalrymple said if services are being provided to nonpublic school students, that will be reflected in the cost factors. He said the first step in the process is heavily weighted in favor of equity. He said this is a multistep process. He said he anticipates that over three sessions, in excess of \$200 million can be provided. He said the second and third steps will focus on adequacy. He said there is a long way to go in defining adequacy. He said if

people have expectations about class size, teacher qualifications, and the various programs, there will be costs. He said we need to get the equity issue behind us before we can begin to discuss adequacy.

## **FINANCE AND TAXATION COMMITTEE - UPDATE**

Chairman Freborg called on Representative C. B. Haas to present testimony regarding the efforts of the interim Finance and Taxation Committee. He said the Finance and Taxation Committee is looking at a four-biennium plan to reduce property taxes. He said it will take a big chunk of additional state funding to do this. He said if the state continues to put more money into elementary and secondary education, we need to expect a response from school districts with respect to reducing property taxes. He said the bill draft being considered by the interim Finance and Taxation Committee would require a dollar-for-dollar reduction. He said the interim Finance and Taxation Committee had a long discussion about the source of additional funding for property tax reduction. He said the bill draft appropriates \$74 million out of the state general fund to do this for the next biennium. He said the interim Finance and Taxation Committee believes that given the economic well-being of the state at this time, the money should be given back to the people in real property tax relief. He said if future legislative assemblies continue with this program, we could ultimately see a reduction in the general fund property tax from 185 to 105 mills. He said the bill draft contains no additional money for education. He said the interim Finance and Taxation Committee is still looking at the minimum effort that should be required of a district before it is eligible for property tax relief.

Representative Haas said the maximum by which a school district could increase its levying authority is the consumer price index plus 2 percent, as opposed to the current 18 percent. He said given the consumer price index over the past few years, the maximum amount by which a school board could increase the district's levy is 6.5 percent. He said school districts will not be able to escalate their school taxes back to the level they are at now.

Representative Haas said the Legislative Assembly sets the rules by which school districts can increase taxes. He said if we do not want increases to happen, the Legislative Assembly needs to put language in place to preclude that from happening.

Representative Herbel said the interim Finance and Taxation Committee was also charged with enhancing funding for education. He said the committee is looking just at property tax relief, in large part because of the creation of the North Dakota Commission on Education Improvement as a result of the lawsuit.

Representative Mueller said the current surplus will address the money that is being asked for during this first biennium. He said the bill draft also looks at

future interim committees to pursue how tax reduction efforts in future years should be funded.

Representative Haas said there is nothing in the interim Finance and Taxation Committee proposed bill draft that addresses education funding formulas.

### **EDUCATIONAL ASSOCIATIONS GOVERNED BY JOINT POWERS AGREEMENTS**

Chairman Freborg called on Mr. Tom Decker, Director of Finance and Organization, Department of Public Instruction, to provide testimony regarding educational associations governed by joint powers agreements. He distributed a document entitled *Joint Powers Agreements 4/19/2006*. The document is attached as Appendix B.

Mr. Decker distributed a document entitled *School District Contributions to Educational Associations School Year 2005-2006*. The document is attached as Appendix C. He said in almost every case, the contributions that school districts made to their educational associations exceeded the amount of money the districts received from the state.

Mr. Decker distributed an article from the *Minot Daily News* dated July 7, 2006, entitled "Governor's Commission Looks at Education Funding." The document is attached as Appendix D. He said the document reviews the commission's position regarding educational associations governed by joint powers agreements. He said the educational associations began as school district collaborations. He said they have the potential to do many more things and to do them very well.

### **South East Education Cooperative**

Chairman Freborg called on Mr. Kyle Davison, Coordinator, South East Education Cooperative, Fargo, to present testimony regarding the cooperative. His testimony is attached as Appendix E. He said the South East Education Cooperative came into being during July 2005. He said the cooperative is the state's largest educational association in that it includes 22,500 students or 22 to 23 percent of the student population in the state. He said participating districts range in size from Fargo and West Fargo to the 78 students in the Fairmount School District.

Mr. Davison said each of the cooperative's participating members pay an annual fee of \$1,000 and cooperating members pay a one-time fee of \$500. He said the cooperative's annual budget for 2006-07 will be \$326,613.

Mr. Davison said the cooperative focuses on four main areas--professional and staff development, grant coordination, extended learning, and technology. He said the cooperative has just approved the expenditure of \$20,000 for Fargo and West Fargo to cooperatively pursue the development of a newcomer center for English language learners. He said Fargo has approximately 800 such students and West Fargo has 300 such students.

Mr. Davison said the cooperative also identified a need in rural North Dakota for certified nurse assistants. He said the cooperative then put together an academy for students who wished to pursue certification as nurse assistants. He said 22 students took advantage of the program. He said it was offered as a summer program.

Mr. Davison said the Fargo Public School District has run a school improvement camp for the last three to four years. He said it volunteered to open that up to representatives from the 15 schools in the cooperative. He said currently there are seven enrolled for the August program. He said the members are continuing to build trust.

Mr. Davison said since the cooperative has several elementary school districts as participating members, it also offered Camp Invention. The Fargo, West Fargo, Casselton, and Kindred School Districts came together and offered students an opportunity to learn about entrepreneurs and science. He said 110 students participated. He said they came from as far away as Hankinson.

In response to a question from Representative Herbel, Mr. Davison said the amount of money that is appropriated to educational associations will affect how quickly those associations can begin to provide additional services.

### **Roughrider Education Services Program**

Chairman Freborg called on Ms. Lois Myran, Director of Instruction and Coordinator, Roughrider Education Services Program, Dickinson, to present testimony regarding the Roughrider Education Services Program (RESP). Her testimony is attached as Appendix F. She said there are differences in the educational associations because of their age and because of the focus that each has decided to pursue. She said RESP was formed four years ago, in large part to address a shortcoming in professional development.

Ms. Myran said during the 2005-06 school year, RESP developed a wellness plan. She said now that the core plan is completed, RESP will develop services to benefit students. She said RESP developed an English language learner plan. She said district training to implement the plan will take place in August 2006. She said 179 teachers participated in content and grade level meetings through teacher-facilitated groups. She said the teachers have asked that this be continued next year. She said districts identify areas or topics they would like to study and then groups are formed. She said the plan is to provide ongoing professional development. She said 16 of RESP's 18 districts participate in curriculum mapping and there are efforts underway to pursue school improvement initiatives.

In response to a question from Senator Lee, Ms. Myran said there has been a higher rate of success in receiving grants when the districts work together as a unit, as opposed to having each individual district submit a grant request.

In response to a question from Representative Herbel, Ms. Myran said the community is starting to understand the types of activities with which RESP is involved. She said the monthly newsletter is shared with many legislators. She said there is much more work to be done to promote the efforts of RESP and the other educational associations.

Chairman Freborg called on Dr. Patrick Glashan, Chairman, Department of Teacher Education, Dickinson State University, to present testimony regarding educational associations. He said educational associations governed by joint powers agreements provide better teaching, better learning, and better use of limited resources. He said the educational associations also allow university personnel to make contacts with school district personnel and ultimately promote the placement and mentoring of teacher education students. He said professional development can only occur if there is close collaboration between a university and the participating school districts. He said facilities can be shared and grant money can be sought to bring in speakers and ultimately help teachers be better professionals.

### **Requested Appropriation**

Chairman Freborg called on Mr. Davison who provided testimony regarding the appropriation being sought by educational associations governed by joint powers agreements. He distributed a document entitled *Budget Subcommittee - JPA Legislative Issues Committee Meeting*. The document is attached as Appendix G. He said the educational associations formed a budget subcommittee. He said it consisted of three governing board members, three lead administrators, and three coordinators--one from each of the nine associations. He said the subcommittee met several times and then presented its proposed budget to the educational association leadership group in April 2006. He said for the 2007-08 school year, the educational associations would like to see a base rate for administrative services of \$135,000 for each of the nine educational

associations, a per student allocation of \$15, and \$200,000 for new initiative project development. He said for the 2008-09 school year, the educational associations would like to see a base rate of \$150,000 for each of the nine educational associations, a per student allocation of \$20, and \$300,000 for new initiative project development. He said the total sought for the biennium would be \$6,335,000.

Mr. Davison said there are a tremendous number of opportunities for educational associations governed by joint powers agreements during the coming years. He said the appropriation being sought would help the associations be a part of the solution and part of the excellent education system that North Dakota needs so that its students can compete in a global workplace.

Chairman Freborg called on Ms. Anita Decker, Director of School Approval and Accreditation, Department of Public Instruction, to present testimony regarding requests for waivers of accreditation rules and instructional time requirements. She distributed a document entitled *Report of Waiver Applications for School Year 2006-2007*. The document is attached as Appendix H. She said the Superintendent of Public Instruction approved two requests for continuation of waivers that have been granted for the 2005-06 school year. She said the Superintendent disapproved all the others. She said one of those was for a waiver of an accreditation rule governing high school principals, one was for implementation of a four-day school week, and the remaining requests were for early releases to provide teacher professional development time. She said the document provides detail as to why the requests were denied.

Chairman Freborg adjourned the meeting at 11:45 a.m.

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L. Anita Thomas  
Committee Counsel

[ATTACH:8](#)