

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**EDUCATION FUNDING COMMITTEE**

Tuesday, May 8, 2018

Fargo Public School Conference Room, 415 4th Street North  
Fargo, North Dakota

Senator Donald Schaible, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Donald Schaible, Kyle Davison, Ralph Kilzer, Erin Oban, David S. Rust; Representatives Pat D. Heinert, Richard G. Holman, Mark S. Owens, Mark Sanford, Cynthia Schreiber-Beck, Denton Zubke

**Members absent:** Representatives Dennis Johnson, David Monson

**Others present:** Representative Al Carlson, Fargo, and Senator Ronald Sorvaag, Fargo, members of the Legislative Management

Representatives Brandy Pyle, Casselton, and Andrew Marschall, Fargo

See [Appendix A](#) for additional persons present.

**It was moved by Representative Sanford, seconded by Senator Oban, and carried on a voice vote that the minutes of the March 14, 2018, meeting be approved as distributed.**

**ELEMENTARY AND SECONDARY EDUCATION  
STATE AID AND FUNDING FORMULA STUDY**

Dr. Jeff Schatz, Superintendent, Fargo Public School District, welcomed the committee to Fargo and Fargo Public Schools.

Chairman Schaible thanked Dr. Schatz for allowing the committee to use the school district's meeting room and for providing transportation for committee tours. Chairman Schaible also thanked district staff for their assistance in preparing the room for the committee meeting.

The committee traveled to Nativity Elementary School, 1825 11<sup>th</sup> Street South, Fargo, to tour a SmartLab assembled at the elementary school by the North Dakota Center for Distance Education (NDCDE).

Mr. Matthew Lonn, Director of Statewide Programs, North Dakota Center for Distance Education, reviewed the SmartLab project with committee members. He said the project is cloud based and provides student centered learning.

Ms. Kimbra Amerman, Principal, Nativity Elementary School, said the first SmartLab was a science, technology, engineering, and mathematics (STEM) laboratory installed for 5<sup>th</sup> grade students at Nativity Elementary School. She said science and mathematics scores at Nativity Elementary School outpaced other elementary schools in the St. John Paul II Catholic Schools Network (JP II Catholic Schools). She said fundraising has allowed JP II Catholic Schools to install SmartLabs in all network schools.

The committee traveled to Sullivan Middle School, 5600 25<sup>th</sup> Street South, Fargo, to tour a SmartLab installed by NDCDE for grades 6 through 8.

Mr. Leon Knodel, Principal, Sullivan Middle School, said lesson plans may be integrated into the SmartLab and the SmartLab encourages problem solving and perseverance. He said one challenge is balancing the amount of time spent in the SmartLab with the other coursework.

The committee traveled to the North Dakota Center for Distance Education, 4776 28<sup>th</sup> Avenue South, Fargo, to tour their headquarters.

Dr. Allen Peterson, State Director, North Dakota Center for Distance Education, welcomed the committee. He said NDCDE is able to purchase SmartLab equipment at a lower price than school districts. He said NDCDE

charges schools to set up and support the laboratories and the program is not subsidized by the state. He said in addition to public and private schools, NDCDE also serves homeschool programs.

In response to a question from Senator Oban, Mr. Lonn said the life of a SmartLab depends on the school's willingness to update hardware. He said NDCDE contracts to support the laboratories for 5 years; however, some SmartLabs are 20 years old. He said the curriculum meets state standards and is updated annually. He said the curriculum support agreement has an annual charge.

In response to a question from Senator Rust, Dr. Peterson said installing SmartLabs is a small part of NDCDE's mission. He said NDCDE assists school districts by providing online courses at the last minute when a teacher can not be hired; however, he said some elective classes are also provided by NDCDE.

The committee recessed for lunch and reconvened in the Fargo Public Schools conference room.

At the request of Chairman Schaible, Mr. Adam J. Tescher, Director, School Finance and Organization, Department of Public Instruction, provided information ([Appendix B](#)) regarding:

- Property tax revenue received compared to property tax revenue deducted in the formula during the 2016-17 school year for each school district in the state;
- Total local revenue actually received, by revenue type deducted in the state school aid formula, and the contribution from local in lieu of revenue actually deducted in the state school aid formula for each school district in the state; and
- A detailed listing of actual local revenue received by certain school districts by revenue source and fund compared to local revenue offset in the state school aid formula during the 2016-17 school year, including an analysis of the effects on the district's state school aid of distributing the various types of local revenue in the same proportion as mill levy revenue.

Mr. Tescher said for the 2016-17 school year, statewide, school districts levied \$274.2 million on \$4.1 billion of 2015 taxable valuation for the general funds. He said the local property tax contribution deducted in the state school aid formula for all districts during the 2016-17 school year was \$219.7 million, \$54.5 million less than the property tax levied.

Mr. Tescher said statewide total local revenue actually received by revenue type deducted in the state school aid formula, totaled \$68.0 million and the contribution from local in-lieu of revenue actually deducted in the state school aid formula totaled \$53.7 million. He said information regarding in lieu of revenues are reported to the Department of Public Instruction (DPI) by counties each August. In lieu of revenues include homestead credits; Game and Fish Department land; land owned by the Board of University and School Lands or State Treasurer; National Guard land; farmland or ranchland owned by nonprofit organizations for conservation purposes; land acquired by the State Water Commission; Workforce Safety and Insurance building; mobile home taxes; other revenue in lieu of property taxes; disabled veterans' property tax credits reimbursed by the state; revenue received by the school district from the leasing of land acquired by the United States for which compensation is allocated to the state under 33 U.S.C. 701(c)(3); electric generation, distribution, and transmission tax; and the telecommunications tax. He said information regarding oil and gas production tax, coal production tax, and coal conversion tax are available from the State Treasurer. He said tuition is reported by school districts on their financial statements. He said amounts reported on the summary are 100 percent of the in lieu of revenues received; however, the percentage of each in lieu of revenue type deducted in the state school aid formula is noted at the top of each revenue column. He said the department contacted certain counties regarding the distribution of in lieu of revenue. He said counties contacted distribute some of the in lieu of revenues to the various types of school district funds based on mill levies. He said some in lieu of revenues are not for a specific purpose and are not distributed by mill levy, rather they are deposited in the general fund pursuant to DPI guidelines. He said in some counties the in lieu of revenue is identified, but in others the in lieu of revenue amount is not delineated and is included in the funding provided by property tax assessments. He said the distribution of the in lieu of revenues in counties the department contacted is noted at the top of each column on the summary. However, he said, counties not contacted by the department may distribute in lieu of revenue differently.

Mr. Tescher provided an analysis of the effects of distributing the various types of in lieu of revenue in the same proportion as property tax mills on the state school aid of five select school districts. He said school districts selected for analysis include districts representing--significant oil and gas production revenue; high tuition revenue; large, rapidly growing average daily membership; large, central location; and small, eastern location.

Mr. Tescher said for the 2016-17 school year, McKenzie County School District received \$3.14 million of in lieu of revenue, of which, based on the current distribution of in lieu of revenue, \$2.91 million was deposited into the

district's general fund. He said the contribution from in lieu of revenue deducted in the state school aid formula totaled \$2.39 million, \$519,688 less than in lieu of revenue deposited in the general fund. He said if all in lieu of revenue were distributed in the same proportion as property tax mills, the revenue deposited into the general fund would total \$1.78 million. He said the general fund deposits would decrease \$1.13 million because oil and gas production taxes, deposited in the general fund under current DPI policy, would be allocated to the general fund and other funds. He said if the contribution from in lieu of revenue deducted in the state school aid formula were set at 100 percent, the deduction, \$1.78 million, would equal the deposits in the general fund. He said if the contribution from in lieu of revenue deducted in the state school aid formula were set at 75 percent, the deduction, \$1.33 million, would be \$444,288 less than the in lieu of revenue allocated to and deposited into the general fund.

Mr. Tescher reviewed similar analyses for Minot Public Schools, West Fargo Public Schools, Bismarck Public Schools, and the Wahpeton School District. He said a significant portion of the in lieu of revenue collected by Minot Public Schools is tuition which is deposited into the general fund, this results in a formula deduction that is less than the revenue deposited into the general fund. He said West Fargo Public Schools is an example of a district whose general fund levy is capped below 60 mills. He said the district deposits less of the in lieu of revenue allocated by mill levy in the general fund (40.74 percent); however, the funding is deducted at 100 percent in the state school aid formula. He said this results in a formula deduction that exceeds the amount of in lieu of revenue deposited in the district's general fund. He said the formula deduction also exceeds the amount of in lieu of revenue deposited in the general fund for Bismarck Public Schools and the Wahpeton School District due to the type of revenue collected and the various mills levied for special funds. He said any changes to the formula that reduces the deduction for local revenue in the state school aid formula, will increase the state's share and the cost of state school aid.

Mr. Tescher said the effects of a policy change would vary by school district, depending on the types of in lieu of revenue each district receives, which determines the fund or funds into which the revenue is deposited, and the percentage of property tax mill levies that are deposited into the general fund. He provided a statewide summary analysis of the distribution of in lieu of revenue during the 2016-17 school year. He said statewide, under current policy, of the \$68.0 million of in lieu of revenue received by school districts, \$64.6 million (95 percent) is deposited into districts' general fund and \$53.8 million is deducted in the formula, which allows districts statewide to keep \$10.8 million of the in lieu of revenue deposited in the general fund. He said statewide the average percent of property tax mill levies deposited into districts' general fund is 67.4 percent. He said if policy were changed to allocate all in lieu of revenue based on property tax mills, \$45.9 million of the \$68.0 million would be deposited into the general fund and, if the 100 percent deduction were maintained, the entire \$45.9 million would all be deducted in the state school aid formula. He said if the state school aid deduction were 75 percent, \$34.4 million would be deducted in the state school aid formula, allowing districts statewide to keep \$11.5 million of the in lieu of revenue deposited in the general fund. He said if in lieu of revenue were distributed based on the proportion of property tax mills and the 100 percent deduction were maintained, the difference between the \$53.8 million, deducted in the state school aid formula during the 2016-17 school year, and the \$45.9 million, that would have been deducted, (\$8 million) would represent the additional cost to the state for 1 year (\$16 million per biennium). He said if the deduction were 75 percent, the difference between the \$53.8 million, deducted in the state school aid formula during the 2016-17 school year, and the \$34.4 million, that would have been deducted, (\$19 million) would represent the additional cost to the state for 1 year (\$38 million per biennium). He said his estimates are based on the statewide average for mill levies assessed and the amounts could vary when each district is calculated separately and rolled up to a statewide total.

In response to a question from Senator Rust, Mr. Tescher said if in lieu of revenue were distributed in the same proportion as property tax mills, less revenue would be deposited into districts' general fund and more in lieu of revenue would be deposited into districts' special funds, except for the districts that only levy for the general fund.

At the request of Chairman Schaible, Dr. Aimee Copas, Executive Director, North Dakota Council of Educational Leaders, provided information ([Appendix C](#)) regarding the teacher loan forgiveness program. She said 80 districts responded to a North Dakota Council of Educational Leaders (NDCEL) survey regarding the teacher loan forgiveness program. She said the North Dakota University System administered a previous program, but the new program allows school districts to select teachers to receive loan forgiveness benefits. She said for most districts the process was determined by a leadership team or the central office. She said some districts used an interview or application process, while others were selected by random drawing. She said over 50 percent of the districts responding indicated they used these scholarships to retain teachers. She said funding for the first year of the biennium was not adequate to provide two scholarships per district, so larger districts did not receive funding and some smaller districts received funding for just one scholarship. In the schools responding to the survey, she said, the program change resulted in a loss of benefits for 186 teachers in favor of newer teachers under the new program. She said if the program is not fully funded, schools prefer to return administration of the program to the University System. She said suggestions for improvement include the ability to transfer funds to a different subject matter teacher if needed and allocating a grant to the district and allowing the district to fund as many positions as

possible. She said small districts expressed concern that the application deadline was too early in the hiring cycle. She said many school districts had critical hires, but the individuals had not yet been hired.

Representative Heinert suggested the committee receive information regarding the number of teachers benefiting from the new program compared to the number of teachers that benefitted under the old program, including an average scholarship amount under both programs.

Senator Davison said the program was not intended for all teachers, rather only for areas of teacher shortage.

In response to a question from Senator Davison, Dr. Copas said data and feedback, like the survey, will help the Department of Public Instruction improve the process. She said critical need areas, such as special education and speech pathology, exist in both large and small districts. She said during the 2017 legislative session there was a perception that the funding would cover two positions per district, but the funding has not been sufficient to provide for two positions per district.

Ms. Kirsten Baesler, Superintendent of Public Instruction, said during the 2017 legislative session it was not possible to accurately calculate the total funding necessary for a certain number of positions because there are different reimbursement amounts based on tiers and it was unknown how many positions would be funded at each tier.

Chairman Schaible said the appropriation was not based on the number of applications, but rather on the funding available.

In response to a question from Senator Davison, Ms. Baesler said the priority formula used to determine shortage areas was based on federal registry rules. She said the state could develop a different formula.

In response to a question from Senator Davison, Ms. Baesler said the current program targets the rural and rural isolated schools. She said the schools are allowed to choose which positions are more difficult to fill and should be funded.

Chairman Schaible said the program had limited funding available, but there was a desire to set the awards high enough to have an impact. He said retention was built into the program with the higher awards.

In response to a question from Chairman Schaible regarding a block grant to a school district, Dr. Copas said there may be other means of providing flexibility to school districts, including policy changes to allow hiring bonuses.

In response to a question from Senator Rust, Ms. Baesler said, because it took 1 year to implement the program, the department will not have trending data to share with the Legislative Assembly. She said the department will be able to compare the number of unfilled positions in critical shortage areas in rural and rural isolated schools to the number of unfilled positions 1 year ago.

Mr. Mark Lemer, Business Manager, West Fargo Public Schools, presented information ([Appendix D](#)) regarding the rapid enrollment grant program and full funding for on-time enrollment. He said a separate appropriation for rapid enrollment grants, based on forecasted enrollments, is vulnerable to large variances in actual versus forecasted enrollments. He said the grants, limited to \$3 million each year of the 2017-19 biennium, were intended to provide \$4,000 per eligible student for the 2017-18 school year, but instead provided approximately \$2,350 per eligible student. He said when rapid enrollment grant calculations totaled \$5.1 million for the 2017-18 school year, the department was required to prorate grant funds. He said over 1,270 students qualified for the grant, 520 more than the 750 students estimated to calculate the appropriation. He said because the rapid enrollment grant program is a separate line item in the department's budget, and not part of the formula, there is the potential it may be reduced or eliminated. He suggested incorporating an adjustment in the current funding formula for the greater of fall enrollment or the prior year's average daily membership. He said full funding for on-time enrollment provides support for growing districts, while maintaining the current model of paying for the prior year's student enrollment in declining enrollments. He said a transition to the adjustment could be accomplished through a weighting factor applied to the qualifying number of students. He said the weighting factor could be set to provide \$4,000 per eligible student and increased over time until the incremental cost of moving to full funding is negligible. He said a .40 weighting factor applied to eligible students, the number of students remaining after reducing the increase by the lessor of 2 percent or 10 students, would have increased state school aid \$5.1 million during the 2017-18 school year, \$2.1 million more than the \$3 million provided for rapid enrollment grants. He said funding provided for the rapid enrollment grant program (\$6 million for the 2017-19 biennium) would be sufficient to implement a factor of approximately .25 per eligible student. He said the Legislative Assembly could choose to modify any of the

variables, including the weighting factor, the percentage deduction, the number of students deducted, or any combination of these variables, to achieve on-time funding over years.

In response to a question from Chairman Schaible, Mr. Lemer said the current appropriation does not provide enough funding to implement on-time funding in just the single fastest growing school district in the state for one biennium. He said adjustments could be made to the factor and thresholds for payment over time until eventually all districts would be receiving on-time funding and the factor could be removed. He said on-time funding would require a reconciliation after each school year. He said if the final census indicates a decrease from the fall enrollment, funding would be adjusted. He said school districts with declining enrollments would continue to be paid based on prior year enrollment.

Mr. Lemer provided information regarding funding for school districts incurring tuition costs for students placed in summer programs outside of the district. He said school districts are required to pay tuition related to summer placement; however, there is no mechanism for schools to claim the foundation aid related to students in summer placements. He said NDCEL is working with DPI to determine whether the remedy would require legislative action or a process change by the department. He said there would be a cost associated with the change; however, the amount is not known. He said schools are not required to report this information, so statewide data has not been collected.

In response to a question from Representative Heinert, Mr. Lemer said summer placement charges are incurred when a school district's student is placed at a juvenile placement facility by the courts or social services and the school district must pay for summer programming offered at the facility.

Mr. Jim Johnson, President, North Dakota School Boards Association, presented information ([Appendix E](#)) regarding the state school aid formula. He said the North Dakota School Boards Association (NDSBA) supports a state school aid payment formula that uses the greater of fall enrollment or the previous spring enrollment to determine state school aid. He expressed concern regarding instances in which excess general fund mill levies are not approved by voters and the impact on foundation aid. He suggested changes to allow voters to remove the 10-year sunset on voter-approved excess general fund mill levies. He said not increasing the foundation aid per pupil payment for multiple years puts a strain on the operating budgets of school districts. He suggested if state budget limitations do not allow for an increase in the integrated formula payment rate in the next biennium, consideration be given to allowing school districts the ability to increase mill levies to offset the effects of inflation and wage adjustments.

Chairman Schaible said school districts have the ability to increase mill levies beyond limits set by the Legislative Assembly with voter approval. He said removing the 10-year sunset on voter-approved excess general fund mill levies would eliminate local voter control.

Mr. ElRoy Burkle, Executive Director, North Dakota Small Organized Schools, presented information ([Appendix F](#)) regarding transportation funding. He said data for one school district was not submitted in time to include in the report. He said based on data available in March 2018, school districts transported 43,157 students during the 2016-17 school year, an increase of 4,761 students from the 2010-11 school year, but a decrease of 1,445 students from the 2015-16 school year. He said since the oil boom started, the number of students peaked during the 2015-16 school year; however, the total cost of transportation during the 2016-17 school year of \$62.1 million is a record high, even though the number of miles traveled was less than the prior year. He said a shortage of bus drivers has driven up the hourly wage of drivers. He said although the increases in hourly wage rates have stabilized in the last few years, the bus driver shortage is still a challenge in both rural and urban communities. He said rural districts have reduced routes due to declining enrollment and a shortage of bus drivers. He said the appropriation for transportation grants during the 2017-19 biennium of \$55.4 million is approximately 3 percent less than transportation reimbursements during the 2015-17 biennium. He said reimbursement rates were reduced but it appears funding will be sufficient for the 2017-19 biennium. He said although ridership has decreased in rural areas of the state, city ridership has increased. He also provided an update regarding Federal Motor Carriers Safety Administration (FMCSA) regulatory changes. He said one change could require new drivers to enroll in FMCSA training, rather than the online training used currently.

Chairman Schaible suggested the North Dakota Small Organized Schools forward updated transportation information to the committee when available.

In response to a question from Chairman Schaible, Mr. Burkle said as rural population declines, bus routes will become longer and districts may require parents to transport students to a major road to meet the bus. He said some districts may eliminate transportation services.

Dr. John Richman, President, North Dakota State College of Science, presented information ([Appendix G](#)) regarding a strategic plan for the Career Workforce Academy. He said the Career Workforce Academy is still being developed, but will be a collaborative partnership that includes private sector companies, school districts in Cass and Clay Counties, 2-year educational institutions, the local Chamber of Commerce, the Greater Fargo Moorhead Economic Development Corporation, and the cities of Fargo and West Fargo. He said career and technical education and training will focus on grades 10 through 12 and on industry incumbent worker skill attainment. He said a working group was established to address the educational trend linking K-12 education with associated degree programming. He said the working group includes the North Dakota State College of Science (NDSCS) and school districts in Fargo, West Fargo, and Moorhead. He said the project will improve the social-economic position of the region and address the shortage of skilled workers. He said the challenge is bringing an awareness of various careers to students at a younger age. He said the project could include career awareness for grade school students, career exploration for middle school students, and curriculum aligned with certain degrees and trades for high school students. He said many students have a career they are considering when they enter high school, but many high schools do not have the curriculum to support degrees and trades. He said most of the skilled workforce shortages are in the certificate or associate degree professions. He said the academy would continue the incumbent or customized workforce training being done for certain industries at the NDSCS facility in Fargo. He said the Fargo facility also provides English as a second language training to new Americans. He said the group is still developing a strategic plan and budget.

In response to a question from Chairman Schaible, Dr. Richman said programming at the Cass County Virtual Career Center, a collaborative effort of the school districts in Cass County, could be expanded under this project.

In response to a question from Senator Davison, Dr. Richman said the NDSCS Skills and Technology Training Center in Fargo had a public/private funding model. He said the working group is exploring a similar model for the academy. He said in addition to private sector support to renovate or build a facility, the working group is seeking long-term partnerships that will provide internships, cooperative experiences, and updated technology. He said public sector support could come from school districts, grants, or other public funding. He said the Legislative Assembly will not be asked to provide funding for the capital portion of the project.

Representative Holman provided information ([Appendix H](#)) regarding the challenges a North Dakota school district experienced attempting to enroll students from a neighboring Minnesota school district. He said the high school in a neighboring Minnesota school district is closing and many of the students would like to attend a North Dakota school district that is closer to their homes. He said the Minnesota students are not included in the weighted student units of the North Dakota district, so there would be no additional state funding for the Minnesota students. He said although the North Dakota district can collect tuition from Minnesota, 75 percent of the tuition revenue collected would be deducted in the state school aid formula and the remaining funds are not adequate for the cost of the additional students. He said the district could absorb a few of the students, but not the 20 to 30 students that may choose to attend the North Dakota school. He said he has made DPI aware of the situation and suggested the committee explore a solution with DPI that would not adversely affect the state school aid formula for other districts.

Chairman Schaible suggested the committee receive additional information regarding challenges of North Dakota school districts attempting to enroll students from neighboring states.

Senator Oban said 71 of the estimated 300 students served at the Adult Learning Center in Bismarck are between the ages of 16 and 21. She said many students attending are from South Central High School which is the at-risk high school in Bismarck. She expressed concern regarding funding for students ages 16 through 21 accessing services at adult learning centers.

In response to a question from Chairman Schaible, Ms. Baesler said funding does not follow the student from a high school to an adult learning center. She said when a student drops out of high school the school district no longer receives funding for the student in the state aid formula. She said funding for adult learning centers is not included in the state aid formula, but the department provides funding through a separate line item in its budget for adult learning center grants. She said under the federal Every Student Succeeds Act, high school quality measures include credit for students receiving their general equivalency diploma (GED). She said if students are not succeeding in a traditional setting, districts are encouraged to enroll students in an adult learning center to acquire a GED. She said some adult learning centers have closed across the state, resulting in longer travel distances for students. She said it may be appropriate to discuss whether state aid funding may be provided to adult learning centers serving these students.

Senator Oban suggested the committee review funding for adult learning centers.

In response to a question from Senator Oban, Chairman Schaible said whether on-time funding or an increase in the integrated formula payment rate would be more beneficial to school districts depends on each district's circumstance, but increasing the integrated formula payment rate benefits all school districts. He said rapid enrollment grants help school districts with increasing enrollment without harming small school districts with declining enrollment. He said it is likely there will not be sufficient funding in the 2019-21 biennium to both convert to on-time funding and increase the integrated formula payment rate.

In response to a question from Representative Sanford, Chairman Schaible said the cost to bring all school districts on to the formula is not known. He said many of the committee's recommendations will depend on funding available during the next biennium.

Representative Sanford said if every school district is on the formula, there is equity for taxpayers across the state.

Chairman Schaible said the formula was designed with minimums and maximums to protect small, rural, and unique school districts. He said a majority of students in the state are on the formula.

No further business appearing, Chairman Schaible adjourned the meeting at 3:22 p.m.

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Sheila M. Sandness  
Senior Fiscal Analyst

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