

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**EDUCATION POLICY COMMITTEE**

Wednesday, July 31, 2019  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative David Monson, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives David Monson, Ron Guggisberg, Pat D. Heinert, Daniel Johnston, Donald W. Longmuir, Andrew Marschall, Mark S. Owens, Brandy Pyle, David Richter, Cynthia Schreiber-Beck, Michelle Strinden; Senators Kyle Davison, Robert O. Fors, Richard Marcellais, Erin Oban, David S. Rust, Donald Schaible

**Others present:** See [Appendix A](#)

**SUPPLEMENTARY RULES OF OPERATION AND PROCEDURE  
OF THE NORTH DAKOTA LEGISLATIVE MANAGEMENT**

At the request of Chairman Monson, the Legislative Council staff reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

**COMMENTS BY THE CHAIRMAN**

Chairman Monson said the committee has much work to do for the interim. He said there has not been a rewrite of education provisions for many years. He said depending on how many provisions within North Dakota Century Code Title 15.1 need to be rewritten as determined by the committee, the study of Title 15.1 and potential rewrite may not be completed this interim. He said the committee, as part of the study directive, will not be addressing provisions related to the education funding formula in Chapter 15.1-27, as that is a directive assigned to the interim Education Funding Formula Review Committee.

**BACKGROUND MEMORANDUMS**

The Legislative Council staff said there are four studies and 12 reports assigned to the committee.

At the request of Chairman Monson, the Legislative Council staff presented a background memorandum entitled [Education Policy Committee - Dual-Credit, Advanced Placement, and Distance Education Courses - Background Memorandum](#).

Chairman Monson said the committee would like to receive more detailed information regarding the costs associated with dual-credit, advanced placement, and distance education courses. He said determining the costs for the state would be beneficial moving forward.

In response to a question from Senator Marcellais, the Legislative Council staff said homeschooled students could take advanced placement and dual-credit courses through the Center for Distance Education.

Senator Schaible said the biggest concern with dual-credit and advanced placement courses is locating and encouraging teachers to teach dual-credit courses throughout the state. He said a big hurdle is locating teachers who hold the required credentials and qualifications to teach dual-credit courses.

Chairman Monson said in the past a teacher only needed to be approved by the college to teach dual-credit courses. He said now a teacher is required to have a master's degree and a number of credits in the subject area to be taught to be eligible to teach dual-credit courses. He said the committee should receive more information regarding the exact qualifications required to teach dual-credit courses in the state.

Senator Davison said Senate Bill No. 2031 (2015), addressed the delivery and participation of students in advanced placement courses. He said the testimony on the bill did not address the state paying for advanced placement tests. He said the discussion of the bill focused on providing access to the tests, training to teachers in rural school districts, and providing some of the costs associated with the training and access. He said paying for the tests was an interpretation of the bill by the Department of Public Instruction (DPI) after the completion of the 2015 legislative session, but was not the intent of the bill.

Chairman Monson asked the Legislative Council staff to research the intent and legislative history of the 2015 bill.

At the request of Chairman Monson, the Legislative Council staff presented a background memorandum entitled [Education Policy Committee - Teacher Incentive for Leadership Program - Background Memorandum](#).

Senator Schaible said Senate Bill No. 2217 (2019), as introduced, would have used unspent money remaining in the budget. He said the issue was that in the 1<sup>st</sup> year of the biennium there is no way to tell if there will be any unspent money remaining in the budget, so there was no way to ensure funding for a potential program. He said one of the goals of the introduced bill was to provide an avenue for teachers to achieve more financial stability while remaining in the classroom and not moving into school administration.

Representative Guggisberg said it would be helpful to receive a report from the Governor's office on the work of the Governor's Innovative Education Task Force related to a teacher incentive for leadership program.

Senator Davison said one of his concerns is determining how to ensure a potential investment is used to pay for something new and innovative, and not paying for existing items and programs. He said the committee needs to find money to pay for a potential program, determine the options, and make sure the focus is narrow enough so the funding is used for something new.

At the request of Chairman Monson, the Legislative Council staff presented a background memorandum entitled [Education Policy Committee - Impact of Students Who Experience Behavioral Health Crisis - Background Memorandum](#).

Senator Oban said much of the work being done on behavioral health is being conducted in silos. She said as a result, individuals in the education community either are not aware of the work or are not feeling the impacts of the work. She said educators have been working in the classroom with a broken behavioral health system. She said the committee needs to determine what the role of the state is in providing teacher supports, what programs are available at the state level and providing benefit, and how the issue can be better understood if data is being collected. She said a key point to understanding the issues involved in student behavioral health is making sure everyone is using common terminology and is on the same page.

At the request of Chairman Monson, the Legislative Council staff presented a background memorandum entitled [Education Policy Committee - Provisions of the North Dakota Century Code Which Relate to the Provision of Elementary and Secondary Education - Background Memorandum](#).

## REPORT

### Electronic Satisfaction Survey Results - Education Standards and Practices Board

Chairman Monson called on Dr. Becky Pitkin, Executive Director, Education Standards and Practices Board, for presentations (Appendices [B](#) and [C](#)) pertaining to electronic satisfaction survey results.

In response to a question from Senator Schaible, Dr. Pitkin said the Education Standards and Practices Board manages its website. She said in the past one of the complaints received from members of the public pertained to the navigability of the website. She said the board has redesigned certain aspects of the website to improve the user interface, allow for the ability to make changes quickly if necessary, and save money.

In response to a question from Representative Pyle, Dr. Pitkin said to date, the Education Standards and Practices Board has licensed five trailing military spouses under the new law passed during the 2019 legislative session.

## STUDENT BEHAVIORAL HEALTH CRISIS STUDY

### Department of Human Services

Chairman Monson called on Ms. Pamela Sagness, Director, Behavioral Health Division, Department of Human Services, for presentations (Appendices [D](#), [E](#), [F](#), and [G](#)) relating to an overview of terminology, language, and data related to behavioral health, and any progress in behavioral health as it relates to students. Ms. Sagness said behavioral health is interpreted differently depending on within which system a person works. She said behavioral health is an umbrella term that covers many different concepts and includes more than just mental health. She said although the percentage of North Dakota high school students who have used alcohol in the past 30 days is half of the number in 1999, North Dakota remains above the national average. She said there is work to do in the state.

Ms. Sagness said all North Dakotans should have timely access to behavioral health services. She said a waiting list of 6 weeks for services to address a physical illness would not be acceptable, and it should not be

acceptable for behavioral health needs. She said the state needs to invest in prevention of behavioral health issues instead of only investing money in reaction to issues on the back end. She said the majority of current funding is spent on treatment, which is high cost and low impact. She said money also must be spent on recovery so an individual can maintain wellness after undergoing treatment for a behavioral health issue. She said the state needs to increase community-based services close to home so individuals can recover and maintain wellness after undergoing treatment for a behavioral health issue and not be at risk for losing their jobs, homes, or children. She said the state has fairly good coverage and funding for treatment services.

Ms. Sagness said there can be an overlap of children with behavioral health needs and special education needs; however, the needs are different. She said one of the key differences is academic failure. She said while many children with special education needs experience academic failure, it is not always the case with children who have behavioral health needs. She said many children with behavioral health issues thrive in the classroom because school is their safe place. She said special education educators are not always trained in behavioral health needs. She said special education goals typically are to improve progress in school. She said student behavioral health goals often are more related to daily living skills.

In response to questions from Senator Davison, Ms. Sagness said community-based services means services provided close to where an individual who needs the services lives, so the individual does not need to be removed from the home and community to receive treatment and recovery services. She said community-based services are any services that do not require an individual to lose any freedoms or leave the natural environment to receive services within the continuum of care. She said currently the only individuals allowed to treat addiction are bachelor's level addiction counselors or soon-to-be master's level addiction counselors. She said there is not a lower level individual who can address case management. She said the Department of Human Services (DHS) is working on addressing additional levels of providers, such as peer support, care providers, and case managers for example. She said there are professionals in the state, but there are gaps. She said an individual may not be able to call a psychiatrist at midnight or on a weekend for a behavioral health need. She said additional layers of providers and services are needed to strengthen the behavioral health workforce and to provide better wraparound services.

In response to questions from Senator Marcellais, Ms. Sagness said regarding school behavioral health grants, the tribal school that will participate has not been selected yet. She said an invitation to apply for the grant will be sent to schools soon. She said DHS has programs and partnerships to provide prevention services within each Native American tribe in the state. She said DHS is working to expand services to include treatment as well.

In response to a question from Representative Richter, Ms. Sagness said DHS develops process measures within all of its programs offered in schools so DHS can conduct immediate monitoring of the data and find information as needed. She said the measures depend on the individual program, school, and implementation process.

In response to questions from Representative Strinden, Ms. Sagness said FirstLink has developed resources for schools to use. She said schools may post informational posters regarding the FirstLink hotline in the school. She said DHS is working through the county social services consolidation to have one hotline number for the entire state for children to use to self report abuse and neglect. She said currently there is a different hotline number for each county.

In response to questions from Senator Oban, Ms. Sagness said the same behavioral health crisis and issues that afflict adults also afflict children. She said the state cannot expect to address behavioral health needs in children when the system is creating some of the trauma and issues by not adequately addressing the adult issues. She said the data and information shows a correlation between adult and child behavioral health needs. She said the state has made some targeted efforts to address child behavioral health needs, but the momentum is to make changes to the adult system first. She said no matter how well a child with behavioral health needs does while in treatment, eventually the child will go home. She said to maintain wellness, the system also needs to address recovery services once a child leaves treatment and rejoins the family and community.

Chairman Monson said Project ECHO was developed and is being used in Little Falls, Minnesota, for opioid treatment. He said the program is low cost and has proven to be effective in rural areas. He said a similar program could be beneficial in helping rural North Dakota residents without traveling daily to a major city to receive their opioid treatment medication.

Chairman Monson said it appears DHS is doing some good work on behavioral health needs through the funding provided in Senate Bill No. 2012 (2019), but the committee needs to determine how to address the issues in the realm of education and students.

Senator Oban said the state is helping to fund a pilot program at Simile Middle School in Bismarck. She said the committee would benefit from receiving information and results regarding the pilot program and determining if the pilot program should be expanded to additional schools throughout the state or if new programs should be developed.

Senator Davison said it is also important to understand other work is being done regarding child behavioral health issues throughout the state, locally, and regionally. He said work is being done regarding trauma-informed practices for schools, needs assessments, and teacher professional development. He said receiving information on those topics may be beneficial for the committee.

### **Bismarck Public Schools**

Chairman Monson called on Dr. Jason Hornbacher, Superintendent; Ms. Tracy Famias, School Social Worker; and Mr. Mike Yantes, School Social Worker, Bismarck Public Schools, for presentations (Appendices [H](#), [I](#), and [J](#)) regarding data, initiatives, and results related to student behavioral health. Dr. Hornbacher said he and his colleagues have been working to refine procedures and processes regarding student behavioral health for the past 15 years.

Ms. Famias said the presentation related to "walk in their shoes" gives data regarding students in one school in the state in a single year. She said for students to learn to the best of their potential, they need to be calm, focused, and engaged. She said the same issues impact students in every school across the state. She said childhood trauma and safety are issues across the state and country. She said the barriers for students to access behavioral health services include transportation for parents, availability and access of services, and payment issues when a child does not have insurance. She said timely access of services is the hardest barrier to overcome. She said it is not unusual for a child to wait 2 to 3 months to see a therapist.

Mr. Yantes said the Adverse Childhood Experiences (ACEs) Study helped the school district better understand the effect of trauma on children and students. He said the study was conducted by a health maintenance organization (HMO) and the Centers for Disease Control and Prevention (CDC). He said the study surveyed over 17,000 adults when the adults visited their doctor's office for a physical. He said the survey asked the individuals 10 questions about adverse childhood experiences. The questions related to what happened to the individuals before age 18. He said the study scored each question with either a one or a zero depending on if the respondent responded "yes" or "no" on each question. He said results of the survey indicated childhood trauma is more prevalent than first believed. He said 67 percent of respondents reported at least one ACE on the survey. He said 12 percent of respondents had at least four ACEs. He said the survey also indicated there is a dose-response relationship. He said a dose-response relationship means the higher number of ACEs a child experiences before the age of 18, the higher prevalence of serious health issues later in life. He said all of the ACEs on the survey are preventable. He said the survey was intended to be given to adults and is not meant as a screener survey for children.

Ms. Famias said the Interconnected Systems Framework (ISF) takes two systems that typically operate independently and interconnects them. She said Bismarck Public Schools is working on interconnecting the Positive Behavioral Interventions and Supports system with the mental health system. She said schools have been using the Positive Behavioral Interventions and Supports system for a long time by teaching children school rules, expectations, and a core curriculum for all students which teaches social/emotional learning. She said children typically have had to travel outside schools to receive mental health supports. She said approximately 20 percent of children have a need for some mental health services. She said only one in three children get the mental health services needed. She said schools often are left to fill the gaps without the resources or expertise the schools need. She said identifying children who are at risk as early as possible and intervening is key.

Ms. Famias said ISFs provide evidence-based practices and research-based interventions for children through the Multi-tiered System of Support (MTSS). She said teams in the MTSS framework consist of teachers, administrators, counselors, and parents looking at data to determine the needs of a child and identify interventions to put into place. She said the multicolored graph relating to the process in Bismarck Public Schools describes the tiers of a continuum of evidence-based practices or appropriate interventions and supports put in place for students in Bismarck Public Schools. She said as you move up in tiers, the supports and interventions are needed for fewer students. She said Bismarck Public Schools developed two initiatives for its most at-risk students. The first initiative, she said, is the school within a school and is meant for students who are not yet ready to be in a general classroom with 20 other students. The second initiative, she said, is to provide onsite therapeutic services through a partnership with the West Central Human Service Center. She said 80 percent of all students fall within the blue and green sections of the continuum.

In response to questions from Senator Davison, Ms. Famias said Bismarck Public Schools is working to implement MTSS in all schools within the district. She said all schools have the basic framework in place, but are working on building out capacity for more interventions and scaling.

Dr. Hornbacher said he would recommend policymakers look at the data being collected, glean quantitative information, and look beyond to the qualitative school data to develop a connected framework within the community and providers at large to address student behavioral health needs. He said the state needs to move toward working in unison through consistent services. He said the systems may not be identical throughout the state, but they should have commonalities built through community partnerships.

In response to questions from Senator Oban, Dr. Hornbacher said the process of building out the initiatives has occurred over a 15-year period. He said the system and initiatives can be scaled districtwide and statewide. He said the first step is determining the essential components to ISF and addressing trauma-sensitive schools.

Mr. Yantes said there are issues with getting accurate, refined, and consistent data from schools and districts related to restraint and seclusion and incidents in schools. He said schools need to develop interdisciplinary teams to determine if the schools are looking at the right data and using the data in the correct way both from an academic and behavioral perspective. He said the data comes from the Early Warning System and tracks attendance, percentage of attendance missed, and incidents of students acting out physically. He said each school tracks the data throughout the district through PowerSchool, and each school has a system in place for inputting the data. He said the data is weighted and assigned a point value so the students can be tiered in the continuum while analyzing the data.

Dr. Hornbacher said DPI has big picture data related to student academics, attendance, and behavior through reporting processes in place. He said through the pilot program at Simile Middle School, there may be additional day-to-day data available in four or five additional areas that could be provided to the committee.

In response to questions from Chairman Monson, Ms. Famias said the pilot program with initiatives at Dorothy Moses Elementary School has been in place for 1 year, but the continuum of evidence-based practices has been in place for 6 years and is being built upon constantly. She said the continuum has been refined over the span of approximately 15 years.

In response to a question from Representative Heinert, Dr. Hornbacher said the goal is to use professionals with the highest level of education possible for intervention services. He said seven to eight partners have agreed to provide services. He said Bismarck Public Schools is working on developing memorandums of understanding to enter partnerships with additional providers. He said the district will have a much better understanding of outcomes and what they are looking for in January 2020 when they receive more data and information from the community partners.

Senator Davison said MTSS originated in special education and evolved into behavioral health needs. He said the basic framework for MTSS is the same across all schools.

In response to a question from Chairman Monson, Dr. Hornbacher said telehealth services may be one potential solution to provide services in rural schools.

In response to a question from Senator Marcellais, Chairman Monson said it would be best to address the cost after the committee determines the changes that potentially could be made and how to implement potential changes across the state. He said he does not think it will be cost prohibitive.

Senator Oban said a shift in the way resources are used is one way to implement changes without adding additional costs.

Representative Longmuir said an additional day for teacher and administrator professional development may be necessary.

### **Comments by Interested Persons**

Ms. Roxane Romanick, Executive Director, Designer Genes of North Dakota, provided written testimony ([Appendix K](#)).

Ms. Brenda Ruehl, Disabilities Advocate, North Dakota Protection and Advocacy Project, provided written testimony ([Appendix L](#)).

Mr. Matthew McCleary, Youth Coordinator, North Dakota Federation of Families for Children's Mental Health, and Peer Support Program Coordinator, Mental Health America of North Dakota, speaking on behalf of the Mental Health Advocacy Network, provided written testimony ([Appendix M](#)).

Mr. Luke Schaefer, Executive Director, Central Regional Education Association, said trauma-sensitive schools have evolved into what is called trauma-informed practices for schools. He said trauma-sensitive schools opened the understanding of trauma on students, but did not address how to move forward. He said trauma-informed practices for schools teaches methods for engagement on social and emotional levels. He said nearly 7,000 teachers in the state have undergone trauma training. He said West Fargo, Carrington, Jamestown, Wilton, and Minot schools have been collecting data on student behavioral health needs which the committee potentially could access. He said all the reportable data that goes to DPI can be accessed through the statewide longitudinal data system. He said it typically takes a school 3 to 5 years to see positive results while building a behavioral health system similar to what is in place in Bismarck Public Schools. He said PowerSchool is not capable of tracking behavior data the way many people wish, but there are other affordable options that schools are implementing and using. He said the "SWIS Suite" built by the University of Oregon is one example of an affordable alternative option.

In response to a question from Senator Oban, Mr. Schaefer said SWIS could be very beneficial for tracking student behavioral data and potentially could be implemented in all schools in the state. He said some schools in the state make PowerSchool work, but it requires extra work after data collection to refine the information related to student behavior.

In response to a question from Senator Davison, Mr. Schaefer said it would be very beneficial for the committee to learn more about social/emotional learning.

Mr. Mike Connelly said the committee may wish to consider the impact of sleep and sleep deprivation on student behaviors as well. He said ensuring students receive adequate sleep is a key factor in behavior and ability to learn.

## **NORTH DAKOTA CENTURY CODE PROVISIONS THAT RELATE TO ELEMENTARY AND SECONDARY EDUCATION STUDY Committee Discussion and Comments by Interested Persons**

Mr. Wayde Sick, Director and Executive Officer, Department of Career and Technical Education, said career and technical education falls under provisions in Title 15, not Title 15.1. As a result, he said, he does not have any suggestions for potentially amending provisions of Title 15.1.

Dr. Aimee Copas, Executive Director, North Dakota Council of Educational Leaders, said looking at provisions within Title 15.1 which may need to be amended may be a good job for the Kindergarten Through Grade Twelve Education Coordination Council created by Senate Bill No. 2215 (2019). She said the council consists of stakeholders who are all invested in education and the relevant Century Code provisions.

Chairman Monson said it could be a good idea to have the coordination council examine the relevant provisions and report back on what they find.

Mr. Levi Bachmeier, K-12 Education Policy Director, Governor's office, said by law, the Governor may not release the applications for consideration of the gubernatorial appointees to the Kindergarten Through Grade Twelve Education Coordination Council until August. He said once the applications are processed, interviews are conducted, appointments are made, and a meeting date is set by the council, the council gladly will review relevant Century Code provisions and report back to the interim committee if the council finds inconsistencies or irrelevant provisions.

Senator Rust said the study resolution directs the committee to recommend changes to laws found to be irrelevant, duplicative, inconsistent, or unclear. He said he does not think that is the same thing as a full rewrite in which a title is repealed and an entirely new title is created to take the place of the old title. He said he thinks the committee is tasked with substantially less work than a voluminous rewrite project.

Chairman Monson said if the committee undertook a complete rewrite project, the project would take multiple interims to complete. He said the first step is studying and identifying duplicative and inconsistent areas in Title 15.1.

Senator Schaible said the intent of the resolution was a full rewrite of Title 15.1. He said it likely would take more than one interim to complete. He said it may be good to let the coordination council look at the relevant provisions and report back.

Representative Schreiber-Beck said she thinks the relevant code provisions need to be updated to be more workable for individuals at the local level who are impacted by the provisions.

The Legislative Council staff said part of the reason why this study requires input from stakeholders is because while the Legislative Council can draft bills and research in areas of the Century Code, the existing research tools do not flag areas in the Century Code that are inconsistent, irrelevant, or unclear. He said he can locate duplication if the same language is used in multiple provisions, but if there is duplication it often is in how the provisions are applied and not in the specific language of the provisions. He said issues with provisions potentially being inconsistent, irrelevant, or unclear typically are subjective in nature. He said amending and rewriting provisions can occur if necessary, but only after stakeholders inform the committee where the perceived issues lie.

### **STAFF DIRECTIVES**

Chairman Monson said the committee will attempt to coordinate the next committee meeting with the date in late September or early October selected by Senator Schaible for the Education Funding Formula Review Committee.

No further business appearing, Chairman Monson adjourned the meeting at 3:10 p.m.

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Dustin Assel  
Counsel

ATTACH:13