



EDUCATION POLICY COMMITTEE

Thursday, July 2, 2020
Harvest Room, State Capitol
Bismarck, North Dakota

Representative David Monson, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives David Monson, Pat D. Heinert, Donald W. Longmuir, Andrew Marschall, Mitch Ostlie, 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

Members absent: Representatives Ron Guggisberg and Daniel Johnston

Others present: Representative Karen M. Rohr, Mandan, member of the Legislative Management
See [Appendix A](#) for additional persons present.

It was moved by Senator Schaible, seconded by Senator Rust, and carried on a voice vote that the minutes of the January 7, 2020, meeting be approved as distributed.

TEACHER INCENTIVE FOR LEADERSHIP PROGRAM STUDY North Dakota Teacher Support System

Chairman Monson called on Ms. Erin Jacobson, Coordinator, and Dr. Marijke Leibel, Assistant Coordinator, North Dakota Teacher Support System, Education Standards and Practices Board, for a presentation ([Appendix B](#)) regarding the teacher support system mentoring program and funding.

In response to a question from Chairman Monson, Ms. Jacobson said the requested grants supplement the mentoring program. She said the teacher support system program covers all costs associated with the mentoring program. She said grant amounts are insufficient to cover other services districts would like to provide for beginning teachers.

In response to a question from Senator Oban, Ms. Jacobson said a teacher in the 1st contracted year to teach in the state qualifies as a 1st-year teacher under the mentoring program.

In response to a question from Representative Heinert, Ms. Jacobson said because school districts provide educational services to a smaller defined area while regional education associations provide services to a larger region of the state and may require more resources, school districts may request \$3,000 and regional education associations may request \$4,000.

In response to a question from Chairman Monson, Ms. Jacobson said the limit on the amount of beginning teacher network grant funding a school district or regional education association may request is set by the teacher mentoring program and is intended to provide the most equitable amount.

In response to a question from Representative Rohr, Ms. Jacobson said a majority of mentors and 1st-year teachers who participated in the mentoring program indicated a 2nd year of mentoring would be beneficial.

In response to questions from Senator Schaible, Ms. Jacobson said she is working with Fargo Public Schools and surrounding universities to develop a pilot program to provide mentoring to cooperating student teachers to provide more seamless support to new teachers before they become full-time classroom instructors and to reduce the initial shock of becoming a 1st-year classroom instructor.

In response to a question from Senator Rust, Ms. Jacobson said the program funding is subject to budget reductions requested by the executive branch. She said funding for the mentoring program comes from a passthrough grant to the Education Standards and Practices Board through the Department of Public Instruction.

In response to a question from Representative Schreiber-Beck, Ms. Jacobson said 157 school districts in the state use the mentoring program. She said some larger school districts in the state may use district funding to offer a 2nd year of mentoring to new teachers separate from the mentoring program.

In response to a question from Representative Rohr, Ms. Jacobson said national research indicates students of a 1st-year teacher with a mentor are learning material faster when compared to students of a 1st-year teacher without a mentor.

In response to questions from Senator Davison, Ms. Jacobson said funding through the program currently is provided on a first-come, first-served basis. She said in the majority of the cases, the teacher and mentor participating in the program are employed in the same school district.

Committee Discussion and Directives

At the request of Chairman Monson, Mr. Dustin Assel, Counsel, Legislative Council distributed information ([Appendix C](#)) requested by the committee regarding data and comparisons of teacher leadership programs from other states, as provided by the Education Commission of the States.

Senator Oban said legislation has been introduced over the years in an attempt to get more individuals into the teaching profession. She said the mentoring program has proven it is able to train and keep highly qualified teachers in the system, but the Legislative Assembly must decide if it wants to invest resources in recruiting and retaining individuals. She said there should be discussion regarding whether resources should be devoted to training and mentoring future teachers while they are in college, rather than waiting for those individuals to graduate and become 1st-year teachers.

Senator Davison said student teachers are placed in the classroom during the spring semester when much of the work already has been completed. He said student teachers should be getting experience in the fall semester when the teacher is establishing relationships and determining classroom management for the year. He said student teachers could return to school in the spring semester, receive mentoring, and discuss what they learned through the student teaching process.

Senator Rust said the teacher support system mentoring program could look to use federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funds to support the mentoring program further.

In response to previous questions, Ms. Kirsten Baesler, Superintendent of Public Instruction, said the Department of Public Instruction has information on its website regarding the use of the federal Elementary and Secondary School Emergency Relief (ESSER) funds allocated to the state through the CARES Act to address the Coronavirus (COVID-19). She said CARES Act funds and ESSER funds are the same. She said ESSER funds were made available to state education agencies to be used for kindergarten through grade 12 school districts. She said there are criteria school districts must follow to access and use the funds. She said the state applied for and received \$33.1 million dollars of CARES Act funding. She said approximately \$30.3 million of the funds were sent to the school districts. She said the amount received by each school district is based on the proportion of Title 1 funding the district receives, but school districts not eligible for Title 1 funds may not receive ESSER funding. She said school districts can use ESSER funds to reimburse for eligible COVID-19-related expenditures. She said school districts have until August 1, 2020, to submit a request and preliminary budget to the department explaining how the school district anticipates using ESSER funds. She said school districts have until September 30, 2021, to use ESSER funds, unless the school district applies for an extension from the federal government to use the funds after that date. She said professional development is an allowable use of ESSER funds. She said school districts may use allocated ESSER funds on teacher mentoring.

In response to a question from Senator Schaible, Ms. Baesler said ESSER funds must be reimbursed to the school districts if money was spent for professional development and teacher mentoring. She said the funds may not be used to expand and provide additional funding to the mentoring program through the teacher support system under the Education Standards and Practices Board.

In response to a question from Senator Oban, Ms. Baesler said the governor has restrictions on how he may use the CARES Act funding provided through the federal Governor's Emergency Education Relief Fund. She said funding must be used to support school districts and students most significantly impacted by COVID-19. She said she is not sure if the governor's emergency funds may be used to provide additional support to the teacher mentoring program.

In response to a question from Chairman Monson, Ms. Baesler said states may not use CARES Act funding to supplant per pupil funding under the basic foundation aid funding formula because it is not an allowable use of CARES Act funds.

DUAL-CREDIT, ADVANCED PLACEMENT, AND DISTANCE EDUCATION COURSES STUDY North Dakota University System

Chairman Monson called on Ms. Lisa Johnson, Vice Chancellor for Academic and Student Affairs, North Dakota University System, for a presentation ([Appendix D](#)) regarding the cost to provide dual-credit and career and technical education courses to all students in the state, how enrollments are determined, and eligibility. She said advanced placement courses typically are taught in person in the kindergarten through grade 12 setting. She said dual-credit courses may be taught in person or remotely. She said the North Dakota University System received CARES Act funds to help faculty transition to and develop online coursework.

In response to a question from Chairman Monson, Ms. Johnson said the University System received approximately \$44.5 million in CARES Act funding. She said the funds must be spent by the end of December. She said the University System requested \$500,000 of available funds to help develop transitional online coursework.

Ms. Johnson said University System campuses are developing and offering online master's degree level courses in most of the top 10 enrolled content areas to help instructors meet the Higher Learning Commission instructional requirements to become dual-credit instructors. She said she anticipates many online courses reverting to hybrid courses if COVID-19-related concerns dissipate. She said she anticipates University System campuses will return to offering the opportunity for students to meet in person while maintaining an online aspect for coursework.

Ms. Johnson said regarding the cost for students to enroll in dual-credit and advanced placement courses, a "subsidized rate" means the rate is subsidized by the high school providing the instructor for the course. She said an "unsubsidized rate" means the colleges and universities are covering the cost of instruction for the course.

In response to a question from Chairman Monson, Ms. Johnson said not all students who take advanced placement courses take the test to receive college credit. She said some students take the course only to receive high school credit.

In response to questions from Representative Rohr, Ms. Johnson said data on the number of high schools served by advanced placement and dual-credit courses could be refined further to show which schools participated. She said she will conduct additional research and report back to the committee.

Committee Discussion and Directives

Senator Davison said larger high schools typically offer advanced placement courses and take advantage of legislatively allocated funds to help students with the cost of the examination. He said rural schools offering dual-credit courses are more likely to have students pay for courses. He said the money allocated to enhance the delivery and participation of students and teachers in advanced placement courses was not intended to cover the cost of taking the examination. He said the money was intended to be used to train advanced placement teachers and build advanced placement capacity at schools. He said the Legislative Assembly is helping to subsidize the cost of taking advanced placement examinations for students who can afford to pay for the costs, while students who cannot afford to take dual-credit courses are forced to forgo the courses.

Senator Schaible said there always has been support for dual-credit and advanced placement courses, but the Legislative Assembly needs to determine priority and how much support can be provided for the courses. He said the focus needs to be on availability to take courses and ensuring there are qualified instructors accredited to teach the courses. He said those decisions can be made during the legislative session. He said action during the interim is not necessary.

Representative Pyle said consideration should be given to allowing high school students to be eligible for and receive academic and career and technical education scholarship funds before graduation if enrolled in dual-credit courses in which college credit is earned. She said doing so would allow a high school student to pay for dual-credit courses the student may not be able to afford otherwise, using scholarship funds the student eventually would receive.

REQUIRED REPORTS

Department of Public Instruction

Chairman Monson called on Ms. Baesler for the collaborative report (Appendices [E](#) and [F](#)) on the statewide prekindergarten through grade 12 education strategic vision.

Chairman Monson called on Ms. Baesler for a report (Appendices [G](#) and [H](#)) on proposed changes to the state accountability plan.

Kindergarten Through Grade Twelve Education Coordination Council

Chairman Monson called on Mr. Luke Schaefer, Chairman, Kindergarten Through Grade Twelve Education Coordination Council, for a report ([Appendix I](#)) on the activities of the council. Mr. Schaefer said the council measures the progress toward the goals of the North Dakota kindergarten through grade twelve education strategic vision. He said the council's plan to establish and deliver benchmarks and accountability for the strategic vision was waylaid by the COVID-19 pandemic. He said the council provided input and recommendations on the restart guidance document provided to schools. He said the council is continuing to work on accomplishing the remaining objectives.

STUDENT BEHAVIORAL HEALTH ISSUES STUDY

Disabilities Advocacy Consortium

Chairman Monson called on Mr. Dan Stewart, Legal Director, Minnesota Disability Law Center; and Ms. Julie Hornthvedt, Executive Director, North Dakota Disabilities Advocacy Consortium, for a presentation ([Appendix J](#)) regarding policies and practices related to students with disabilities who experience behavioral health crisis or who engage in intense and aggressive behavior for communication purposes. Mr. Stewart said issues related to student behavioral health affect the students, parents, teachers, and classmates. He said there are two main principles of special education law. He said the first principle is students with disabilities have a general legal right to have a free appropriate public education (FAPE). He said FAPE was developed under the federal Individuals with Disabilities Education Act in response to deplorable education conditions across the nation for students with disabilities who were previously institutionalized or segregated from their classmates. He said the United States Supreme Court ruled individualized education plans (IEP) for students with disabilities must be reasonably calculated to enable the child to receive educational benefits and schools have a responsibility to offer IEPs that enable the child to make educational progress in light of the child's circumstances. He said each child has different needs that schools must focus on individually. He said the court further ruled while the goals of each IEP may differ, every child must be provided the opportunity to meet challenging educational objectives.

Mr. Stewart said the second main principle is students with disabilities be provided educational services in the least restrictive environment (LRE). He said a LRE means students with disabilities must receive education to the maximum extent appropriate with students who do not have disabilities. He said the FAPE and LRE principles come into context when developing an IEP. He said development of IEPs require formal evaluations that look at the true needs of students with disabilities to determine if the student is eligible for special education services. He said the goal is for the school and the parents to match the needs determined in the evaluation with specific and identified services in the implemented IEP and to give schools the necessary tools required to meet the needs of the student and the LRE required to provide necessary services. He said it is critical to understand what triggers certain behaviors in students with disabilities, and to provide schools with research-based strategies to meet the needs of the student before extreme behaviors are manifested. He said positive behavioral interventions and supports (PBIS) are fundamental in meeting the needs of students with disabilities. He said the goal is to foster positive student educational outcomes. He said more restrictive environments and the use of restraint and seclusion methods are viewed as systemic failures in implementing PBIS. He said the focus needs to be on preventing the manifestation of extreme student behaviors.

Committee Discussion and Directives

Mr. Assel distributed written comments (Appendices [K](#), [L](#), [M](#), [N](#), [O](#), [P](#), [Q](#), [R](#), [S](#), and [T](#)) submitted by interested persons regarding the student behavioral health issues study.

Senator Oban said there are school districts implementing PBIS and engaging in systemic changes to their approach on student behavioral health issues. She said she would like to receive information regarding how many school districts in the state are taking steps to make systemic changes and implement programs, supports, and interventions for students with behavioral health issues, where the districts are in the implementation process, whether school districts are seeing positive results, and information from school districts on resources required to make the changes.

Chairman Monson said the Department of Public Instruction likely could obtain the information from the school districts for the committee, but he is not sure the committee could do much with the data.

Senator Rust said special education units around the state also could provide data.

NORTH DAKOTA CENTURY CODE PROVISIONS THAT RELATE TO ELEMENTARY AND SECONDARY EDUCATION STUDY

Chairman Monson called on Mr. Assel to present a bill draft [21.0064.01000] relating to the repeal of obsolete and redundant provisions in North Dakota Century Code Title 15.1. Mr. Assel said the committee requested the bill draft in response to testimony from a representative of a stakeholder group indicating several provisions under Title 15.1 are no longer necessary. He said the bill draft repeals six Century Code sections and accomplishes the objective requested by the committee.

Committee Discussion and Directives

Senator Schaible said all interested parties with whom he spoke were in agreement the sections included in the bill draft are no longer necessary and can be repealed. He said the bill draft is a good starting point for cleaning up sections of Century Code going into the 2021 legislative session.

It was moved by Senator Schaible, seconded by Senator Rust, and carried on a roll call vote that the bill draft [21.0064.01000] relating to the repeal of obsolete and redundant provisions in Title 15.1 be approved and recommended to the Legislative Management. Representatives Monson, Heinert, Longmuir, Marschall, Ostlie, Owens, Pyle, Richter, Schreiber-Beck, and Strinden and Senators Davison, Fors, Oban, Rust, and Schaible voted "aye." No negative votes were cast.

Senator Rust said the state and schools are going to face a difficult decision in deciding whether to have in-person instruction in the fall due to COVID-19. He said the Legislative Assembly should have a discussion and should consider legislation to provide immunity to school districts and employees from COVID-19-related liability for holding in-person instruction in the fall, with exceptions for situations involving negligence. He said other states have begun considering and passing similar legislation.

In response to a question from Senator Rust, Mr. Assel said while COVID-19-related liability may be a valid concern, there are concerns with discussing the topic and considering legislation in the interim committee because the broader topic and concerns of COVID-19 are not related to any of the study directives assigned to the committee. He said COVID-19-related discussions likely would be an expansion of committee work outside the scope of the assigned committee responsibilities. He said expanding the scope of committee work would require approval by the Chairman of the Legislative Management.

Chairman Monson said there are questions and concerns regarding CARES Act funds, allowable uses, and whether the committee may have expanded discussions regarding the effects of COVID-19 on education policy at future meetings.

In response to a question from Senator Schaible, Mr. Assel said if the committee does not adjourn sine die at this meeting, the committee may meet again.

Senator Oban said there are questions regarding what the committee may discuss at future meetings. She said there are topics to discuss and information to receive even if it does not result in legislation. She said she would prefer the committee not adjourn sine die and determine if the committee can explore and discuss broader COVID-19-related issues and topics at a future meeting.

Representative Heinert said he agrees the committee should not adjourn sine die. He said the committee should hold another meeting and provide education stakeholder groups an opportunity to present information and concerns regarding educational matters and required changes in law as a result of COVID-19.

Chairman Monson said he would like to know the effects COVID-19 had on the mental health of students in the state, including special education students on IEPs who were not in the classroom and were not able to receive remote instruction. He said presentations and discussion at any future meeting must be relevant to the study topics assigned to the committee. He said the study of Title 15.1 may be broad enough to provide the ability to discuss some COVID-19-related issues.

No further business appearing, Chairman Monson adjourned the meeting at 3:15 p.m.

Dustin Assel
Counsel

ATTACH:20