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## EDUCATION POLICY COMMITTEE

Wednesday, August 26, 2020

Representative David Monson, Chairman, called the meeting to order at 2:30 p.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:** See [Appendix A](#)

**It was moved by Senator Oban, seconded by Representative Longmuir, and carried on a voice vote that the minutes of the July 2, 2020, meeting be approved as distributed.**

Senator Marcellais indicated he intended to vote "aye" on the recorded roll call vote of bill draft [[21.0064.01000](#)] from the July 2, 2020, meeting. It was determined due to a technical issue, Senator Marcellais' vote was not audible.

### CORONAVIRUS (COVID-19) RELATED EDUCATION ISSUES

#### Department of Human Services

Chairman Monson called on Ms. Pamela Sagness, Director, Behavioral Health Division, Department of Human Services, for a presentation ([Appendix B](#)) regarding the impact of Coronavirus (COVID-19) on student behavioral and mental health. Ms. Sagness said resources related to behavioral health supports and COVID-19 are located at <https://www.behavioralhealth.nd.gov/covid-19>. She said additional programs and resources for parents and caregivers are located at <http://www.parentslead.org>, including a toolkit for parents to help with parenting during a pandemic. She said the toolkit addresses back-to-school needs related to both in-person education and full-time distance learning. She said the Department of Human Services (DHS) received Federal Emergency Management Agency (FEMA) funding for crisis counseling to assist residents coping with issues related to COVID-19. She said the resources are available at <https://www.projectrenew.nd.gov>.

Ms. Sagness said DHS received a \$2 million emergency grant to address mental and substance use disorders during the COVID-19 pandemic. She said there are new behavioral health opportunities available to schools. She said the \$1.5 million appropriation in Senate Bill No. 2012 (2019) provided for the establishment of a prevention and early intervention pilot program grant. She said schools may be awarded a grant of up to \$75,000. She said in 2019, the Legislative Assembly also passed a requirement that each school must have a behavioral health resource coordinator.

Ms. Sagness said in 2019 the Legislative Assembly authorized DHS to create a Medicaid 1915(i) state plan amendment to allow state Medicaid to pay for additional home- and community-based services to support individuals with behavioral health conditions. She said the services historically have not been reimbursed. She said the services can benefit eligible school-aged children.

In response to a question from Chairman Monson, Ms. Sagness said the money for the pilot program was a general fund appropriation.

In response to a question from Senator Davison, Ms. Sagness said the 1915(i) state plan amendment funding may cover some of the costs of services and supports for Medicaid-eligible students.

In response to a question from Senator Oban, Ms. Sagness said DHS efforts regarding behavioral health issues in the academic setting include prevention, well-being, social-emotional learning, and implementation of Multi-Tiered System of Supports. She said prevention and early intervention are vital components in addressing student behavioral health issues and needs.

### Department of Public Instruction

Chairman Monson called on Ms. Kirsten Baesler, Superintendent of Public Instruction, for a presentation ([Appendix C](#)) regarding COVID-19-related education issues in K-12. Ms. Baesler said the Department of Public Instruction (DPI) and the Information Technology Department developed a PowerSchool element to allow schools to document the instruction method being used with each student, including face-to-face, distance learning, or a hybrid approach. She said data on the number of schools and students using each learning model will be available in September. She said face-to-face learning will be the default for all schools, and schools only need to report data if students choose distance learning, or if the school decides to offer educational services using a hybrid approach.

Ms. Baesler said DPI applied for and received \$33.3 million of Coronavirus Aid, Relief, and Economic Security (CARES) Act funding. She said the funding is a part of the CARES education stabilization funding, and is provided through the Elementary and Secondary School Emergency Relief fund under Section 18003 of the Act. She said DPI allocated funds to school districts using the federal Title I formula, but districts were not required to follow Title I restrictions when determining how to use the funds. She said schools have until September 2022 to spend the allocated funds. She said schools can use the funds to address COVID-19 concerns in a variety of ways, including any activity authorized by the Elementary and Secondary Education Act, coordination and preparedness response of local education agencies, purchasing supplies to sanitize and clean, planning for and coordinating long-term closures, purchasing education technology, providing mental health services, and planning and implementing summer learning and after-school programs. She said the CARES Act requires each school district to report how their schools spent the allocated funds within 30 days after each quarter. She said 148 of the state's 166 school districts that accepted CARES Act funds have submitted the district's quarterly report as required.

Ms. Baesler said one of the most pressing policy issues to consider related to COVID-19 is determining how to provide adequate and equitable funding for learning. She said due to the pandemic and the alternative methods of learning, it will be difficult to measure instructional time and the learning progress of students. She said other policy issues to consider addressing are the implementation of an online learning funding formula, a review of open enrollments and tuition waiver deadlines, an examination of the impact of home education on public school operations, and how to address cross-border payments.

Ms. Baesler said nationwide, schools will require \$158 billion to \$244 billion in funding over the next 2 years to address additional health and safety costs, costs to address learning loss, and additional effects on state and local education budgets from COVID-19. She said there are multiple pieces of legislation being considered in the United States Senate to address the needs.

In response to a question from Chairman Monson, Ms. Baesler said the data schools report is part of the health and safety plan each school district is required to submit to DPI pursuant to Governor Doug Burgum's executive order. She said the executive order requires each school district to decide how the district intends to provide services this school year and to submit the intention of the district in a plan. She said the plan subsequently is required to be approved by each school board and posted on the district website, along with the district's distance learning plan, before submission to DPI.

In response to a question from Representative Pyle, Ms. Baesler said the current reported positive COVID-19 cases of students and staff are from August 14 through August 26, 2020.

In response to a question from Senator Oban, Ms. Baesler said the number of current reported COVID-19 cases in schools may not be a complete list.

In response to a question from Senator Davison, Ms. Baesler said the federal law required states to use the Title I formula when determining allocations of CARES Act funds.

In response to a question from Chairman Monson, Ms. Baesler said mileage costs related to school district transportation for the delivery of meals to students are not reimbursable under state law because the mileage does not involve the transportation of students. She said school districts may use CARES Act funds to pay for transportation costs related to the delivery of student meals.

In response to questions from Chairman Monson, Ms. Baesler said the instructional hours requirement under law is suspended pursuant to the Governor's executive order. She said while the executive order is in effect, school districts are not out of compliance with the instructional time requirement. She said the Legislative Assembly should consider how to address future instructional time requirements in the absence of an executive order. She said without an executive order suspending instructional time requirements, students and teachers are required to meet face to face for a certain number of instructional hours each year and districts failing to meet the instructional time requirements risk losing foundation aid payments under the funding formula.

In response to a question from Senator Davison, Ms. Baesler said a school district may use CARES Act funds to pay for online classes for its students.

In response to a question from Senator Oban, Ms. Baesler said the Center for Distance Education (CDE) has many courses available for high school students. She said there are some courses available for middle school students, but very few courses available for elementary school students. She said the pandemic has changed the way families look at receiving education for their students.

In response to questions from Senator Schaible, Ms. Baesler said CDE is the state education entity offering the distance learning courses school districts may use to educate students from home during the pandemic. She said CDE is an approved state public school and is a part of the public school system that receives state funding. She said a district that chooses distance learning enrolls its students in CDE. She said each district is responsible for monitoring the educational progress of its students enrolled in CDE distance learning. She said if the district does not choose the distance learning method, but a parent in the district chooses to enroll his or her student in distance learning instead of face-to-face instruction, a North Dakota licensed teacher employed by CDE is the teacher of record for the student. She said if a parent chooses to home school his or her student, the parent is not required to pay for mathematics, reading, or writing courses. However, she said, the parent is required to pay CDE for courses in science, social studies, physical education, health, music, and other courses required in high school.

In response to a question from Senator Marcellais, Ms. Baesler said there is nothing punitive in the CARES Act regarding school districts that fail to meet the reporting requirement for how the district spent CARES Act funding.

#### **Committee Discussion and Staff Directives**

**It was moved by Representative Pyle, seconded by Senator Marcellais, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.**

**It was moved by Senator Marcellais, seconded by Representative Pyle, and carried on a voice vote that the committee be adjourned sine die.**

No further business appearing, Chairman Monson adjourned the committee sine die at 4:40 p.m.

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Dustin Assel  
Counsel

ATTACH:3