

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### EDUCATION FUNDING AND TAXATION COMMITTEE

Tuesday, June 19, 2012  
Harvest Room, State Capitol  
Bismarck, North Dakota

Representative RaeAnn G. Kelsch, Chairman, called the meeting to order at 10:30 a.m.

**Members present:** Representatives RaeAnn G. Kelsch, Bette Grande, Craig Headland, Bob Hunskor; Senators Dwight Cook, Joan Heckaman, Gary A. Lee

**Member absent:** Senator Tim Flakoll

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

**It was moved by Senator Lee, seconded by Representative Hunskor, and carried on a voice vote that the minutes of the February 16, 2012, meeting be approved as distributed.**

**It was moved by Representative Grande, seconded by Representative Headland, and carried on a voice vote that the minutes of the May 30-31, 2012, meeting be approved as distributed.**

At the request of Chairman Kelsch, Mr. Duane Houdek, Executive Secretary, State Board of Medical Examiners, provided testimony ([Appendix B](#)) regarding the diagnosis and treatment of concussions. Mr. Houdek said existing medical protocols emphasize the need for a medical determination before a student athlete returns to practice or play. He said this is required to assess symptoms and diagnose a concussion. He said the diagnosis of a concussion rules out a more severe brain injury.

In response to a question from Representative Grande, Mr. Houdek said it is recognized that concussion diagnoses are more prevalent than in the past. He said it also is recognized that we need to change our approach to concussions and the way we treat concussions. He said often concussions went unnoticed. He said once there has been a diagnosis of a concussion, there are many health care providers who can be involved in managing the concussion and ultimately helping a young athlete return to play. He said one first has to determine that there is a concussion and, in so doing, be able to exclude other structural changes that might have occurred in the brain. He said those determinations simply cannot be made on the sideline.

Representative Hunskor said he is concerned about a young athlete going to a doctor in order to get permission to return to practice or play. He said that doctor might not have up-to-date training with respect to concussions.

Dr. Chris Meeker, Acting Chief of Staff and Director of the Emergency Department, Medcenter One, Bismarck, said he sees a fair number of concussions. He said an athlete should never return to practice or

play on the same day that a concussion was received. He said athletic trainers are a vital part of the treatment of concussions. However, he said, the diagnosis of a concussion is reserved to physicians, nurse practitioners, and physician assistants in collaboration with a physician.

In response to a question from Representative Hunskor, Dr. Meeker said if he were managing a clinic that saw athletes, he would require a level of education regarding the management of concussions. He said it is true that not everyone will have the same skills in dealing with concussions. He said the various boards, including those that address family practice and emergency medicine, require, as part of their curriculum, training in mild traumatic brain injuries. He said if a physician, nurse practitioner, or physician assistant is board-certified, maintains his or her credentials, and is current with continuing education requirements, that would be considered sufficient training in the assessment and treatment of concussions.

In response to a question from Senator Heckaman, Dr. Meeker said the State Board of Medical Examiners requires physicians to complete at least 60 hours of continuing medical education every three years. He said most physicians do a great deal more than that. He said staff in the emergency department deal with a lot of head injuries. He said the staff keeps current with respect to concussions. He said their role as emergency physicians involves the diagnosis of concussions, but not the treatment and long-term followup. He said emergency physicians would not provide return to practice or play authorization. He said that would be up to a family practice physician. He said if that physician believes something is not quite right, the physician will refer the athlete to a neurologist. He said neurologists and individuals specifically trained in sports medicine are the ultimate authorities in determining when an athlete should return to practice or play.

Senator Heckaman said the rural areas do not have the access to the specialty services that are available in larger centers.

Dr. Meeker said rarely is there a need for a neurologist in the emergency department. He said the role of emergency physicians is to rule out things such as bleeding and more significant injuries. He said once an individual has been diagnosed with a mild traumatic brain injury and a treatment plan established, the neurologist would come into play only

if a patient is not progressing according to the treatment plan, if there have been multiple concussions, or if there is something else out of the ordinary.

In response to a question from Representative Hunsakor, Dr. Meeker said physicians would have no problems dealing with continuing medical education requirements if the Legislative Assembly prescribed such. He said if a physician wanted to practice in the area of sports medicine or be a sideline physician, taking an hour of continuing education would be a minimum standard.

At the request of Chairman Kelsch, Mr. Scott Woken, President, North Dakota Board of Athletic Trainers, presented testimony regarding the diagnosis and treatment of concussions by certified athletic trainers. Mr. Woken said the certified athletic trainers must have graduated from an approved athletic training program that meets national standards. He said there are two ways to qualify for the certification test. He said one is graduation from the undergraduate degree program. He said the other is an entry-level master's program. He said a student might have a degree in exercise science or physical education and then enter a two-year master's program that includes the core athletic training curriculum. He said after becoming a certified athletic trainer, one must apply to become licensed in North Dakota. He said athletic trainers are also required to take 50 hours of continuing education units every two years.

Mr. Woken said athletic trainers are very well-trained in all aspects of the human body. He said they have to be proficient in the area of mild brain injuries or concussions. He said that includes the management, treatment, disposition, and diagnosis of concussions. He said that includes decisions regarding return to practice or play. He said those are very specific standards of practice and proficiencies.

Mr. Woken said athletic trainers often base their diagnoses on preparticipation examinations, including cognitive and neurological tests. He said they rely very heavily on the signs and symptoms of the individuals, and if they are not comfortable with what they are seeing, they must refer the athlete to a physician. He said that is specifically stated in their scope of practice.

In response to a question from Senator Lee, Mr. Woken said in the absence of a physician, athletic trainers are very well-qualified to make all of the decisions regarding concussions.

In response to a question from Representative Kelsch, Mr. Woken said athletic trainers are generally covered by their employing organization's liability insurance. He said they also have the ability to purchase private liability insurance.

In response to a question from Representative Kelsch, Mr. Woken said the larger school districts often employ athletic trainers. He said the smaller school districts might not have full-time access to an

athletic trainer, but may contract with someone to come out once or twice a week.

In response to a question from Representative Kelsch, Mr. Woken said an athletic trainer on the sideline would use a step-by-step process--a systematic evaluation to determine the extent of an athlete's injury. He said this would include a subjective and an objective evaluation. He said an athletic trainer then makes a decision with respect to whether the injury is a concussion and whether the athlete can return to practice or play.

In response to a question from Representative Hunsakor, Mr. Woken said if a student athlete gets a second opinion that, contrary to the first, allows the student to return to practice or play, the policy at his employing university is that the final say will be left to the university's physician.

At the request of Chairman Kelsch, Ms. Sara Bjerke, Vice President, North Dakota Athletic Trainers' Association, presented testimony regarding the diagnosis and treatment of concussions by certified athletic trainers. Ms. Bjerke said she works in a secondary school setting in Grand Forks. She said the current law needs to include athletic trainers among the health care providers that can diagnose and treat concussions. She said the law should require appropriate training of all individuals involved in the diagnosis and treatment of concussions. She said this includes physicians.

In response to a question from Representative Kelsch, Ms. Bjerke said in the larger school districts athletic trainers tend to be present every day at practice and at major events. She said in the rural schools, even in places like Williston, athletic trainers are not present. She said if a school district is within 100 miles of a larger center, the district might be able to contract with an athletic trainer who comes out once or twice a week and perhaps covers major games. She said there are gaps in coverage.

In response to a question from Representative Grande, Ms. Bjerke said in the smaller towns, games are often covered by volunteer emergency medical technicians, firefighters, or other individuals who have some basic first aid knowledge.

In response to a question from Representative Grande, Ms. Bjerke said the small rural schools are still trying to address the cost of having an athletic trainer on staff or otherwise available to them.

In response to a question from Representative Hunsakor, Ms. Bjerke said if there are conflicting medical decisions about a student's return to practice or play, the ultimate determination is made by an athletic trainer. She said this often is written into the contract with the school. She said one can deal with a minor ankle sprain. However, she said, if a student still has symptoms of a concussion, that student will not be permitted to return to practice or play. She said there is no discussion about that call. She said the safety of the athlete is the primary concern. She said there are issues of school district liability if a

student is allowed to play while still exhibiting symptoms of a concussion.

In response to a question from Representative Kelsch, Ms. Bjerke said if a visiting team does not have an athletic trainer, the home team's athletic trainer also would cover the visiting team's sideline.

In response to a question from Senator Lee, Ms. Bjerke said the charge for an athletic trainer to come out once a week and cover home football games is approximately \$1,200 to \$1,400 a year.

In response to a question from Representative Kelsch, Dr. Meeker said a determination regarding the existence of bleeding on the brain is often based on clinical indications that something is very abnormal. He said there may be an altered mental status or neurological findings. He said the only way to actually see the bleeding is through the use of a computed tomography (CT) scan.

In response to a question from Representative Kelsch, Dr. Meeker said in the emergency room, a presenting patient is given a general physical examination, which includes heart rate and blood pressure. He said heart arrhythmias and other such irregularities typically would not be screened for in the emergency room. He said if someone has passed out, and the cause is unknown, heart-related examinations would be conducted at that time.

At the request of Chairman Kelsch, Mr. Jack McDonald, Legal Counsel, State Board of Physical Therapy, presented testimony ([Appendix C](#)) regarding the diagnosis and treatment of concussions by physical therapists. Mr. McDonald said the current law limits return to practice or play decisions to health care providers whose scope of practice includes the diagnosis and treatment of concussion. He said the physical therapists believe this is within their scope of practice, but would prefer that the law reference return to practice or play decisions by health care providers who are trained in the evaluation and management of concussions. He said the statutory language requiring that return to play decisions be made by a health care provider who can diagnose concussions limits the number of individuals who are able to make the calls. He said it would be acceptable to list in the law the various health care providers who can authorize a return to practice or play.

In response to a question from Representative Kelsch, Mr. McDonald said a diagnosis is a strict medical procedure that requires an individual to go through a number of steps in which they have been trained. He said it is a term of art that has come to mean very specific things. He said an evaluation is broader. He said an athletic trainer might make an evaluation rather than a diagnosis. He said a physician would make a diagnosis.

Committee Counsel said it is important to understand the words being used. She said the question is how a health care provider can begin to manage and treat a circumstance that the individual cannot diagnose. She said at some point someone needs to determine that the athlete has a concussion.

Mr. McDonald said a physical therapist can engage in diagnosis. He said a physical therapist can make a diagnosis and then determine whether the problem is treatable within their scope of practice. He said if it is not treatable as such, physical therapists are required by law to refer the patient to a physician. He said perhaps management and treatment would be another alternative phrase to consider.

In response to a question from Senator Heckaman, Mr. McDonald said in the physical therapists' scope of practice, it does not state that they can diagnose concussions. He said, however, the physical therapists determined that, given the training they receive, they are able to diagnose concussions.

In response to a question from Representative Grande, Mr. McDonald said the Board of Physical Therapy looked at what other states are doing and what the accreditation bodies are recommending. He said the board determined that general diagnosing authority would encompass symptoms of concussion and, therefore, concluded that diagnosing concussions was within their scope of practice.

In response to a question from Representative Grande, Mr. McDonald said the Board of Physical Therapy did not evaluate the scope of practice of athletic trainers.

Representative Grande said this was supposed to be a simple thing. She said the athletic trainers are the best qualified to do the evaluations. She said if the Board of Physical Therapy would put into their scope of practice that they can diagnose concussions, this issue goes away.

Committee Counsel said it has been indicated that within their scope of practice, athletic trainers can diagnose and treat concussions. She said that was not entirely clear in the discussion during the 2011 legislative session. She said there has been some concern about whether the diagnosis is within the scope of practice for physical therapists. She said this is an issue of semantics. She said if words such as diagnose, evaluate, manage, or treat are put into the statute, it would be preferable to have everyone understand the words the same way. She said we do not want a situation in which one person believes that an evaluation includes a diagnosis and the next person believes that it does not. She said clarifying these distinctions is one aspect of this study. She said it is important to determine and articulate definitively which group of care providers can do what.

In response to a question from Representative Kelsch, Mr. McDonald said the physical therapists determined that, considering their training, the diagnosis of concussions is within their scope of practice. He said the fact that they had to go through the process in the first place indicates that there is not an easy definition of what constitutes a diagnosis.

Mr. McDonald said there is no issue about who should take an athlete off the field because of a possible concussion. He said the issue is who is able to authorize a return to practice or play.

Senator Cook said an evaluation is one thing, but a definite diagnosis is another thing. He said we need to have people who can pull a child out of play because of a potential head injury. However, he said, without disrespect to the other health care providers, if his grandson receives a head injury, he would want a physician to determine the nature and extent of the injury.

Dr. Meeker said there is a difference between an evaluation and a diagnosis. He said an evaluation can lead to a diagnosis. He said the problem is that a diagnosis is very definitive from both a legal and a medical perspective. He said if you say that someone has a concussion, you are also saying that the person does not have a subdural hematoma, an epidural hematoma, a skull fracture, or a number of other injuries. He said he has nothing against athletic trainers. He said they are a vital part of this entire effort. However, he said, if you allow other groups to diagnose concussions, there is a huge amount of liability that will be shouldered by someone in the event that they miss a serious injury. He said the question is if someone has multiple head injuries, who is responsible. He said it also is important to have documentation regarding a student's medical encounters. He said if a student athlete never enters the medical arena, who would have an accessible record of past head injuries. He said this information is very important in making return to practice or play decisions. He said a very different timeframe should be applied if a student has had three or four concussions as opposed to just one.

Senator Lee said there are a lot of legal ramifications involved. He said we are looking for people to recognize the symptoms of a head injury, evaluate a student, and, if necessary, remove the student from practice or play. He said a determination with respect to whether the injury is a concussion needs to be made by someone else.

Chairman Kelsch said the committee would like a list of the professions that can be involved in determining whether a student athlete needs to be pulled from practice or play and a list of those that can be involved in determining when a student athlete can return to practice or play. She said the groups need to sit down with Committee Counsel and develop language that achieves the original purpose, which was the protection of our student athletes.

Mr. John Vastag, Director, Legislative Affairs, Sanford Health, said legislation in other states ranges from involvement by physicians only to involvement by a wide range of health care professionals. He said this study was also to address student athletes outside of the school systems.

Chairman Kelsch said we need to address the questions that pertain to the current legislation before we are in a position to consider whether the legislation should be broadened.

Representative Grande said we need to focus on the rural aspects of this issue. She said it is difficult enough to cover high school athletic events in this

state. She said expanding the requirements to all youth activities would present significant challenges.

Committee Counsel said she would like the committee's input with respect to the following: Once it is determined that a student athlete has a concussion, which of the health care professions are able to "manage" the concussion.

Mr. Houdek said issues of concussion management should be covered by that which is permissible within the various scopes of practice.

### **INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN - REPORT**

At the request of Chairman Kelsch, Mr. Mark Vollmer, Superintendent, Minot Public School District, presented testimony ([Appendix D](#)) regarding the Interstate Compact on Educational Opportunity for Military Children. Mr. Vollmer said the compact has created a level playing field for incoming military students by facilitating the enrollment process for military families. He said it has enhanced communication between school officials and military families, and it has created a process for addressing disputed decisions.

In response to a question from Senator Lee, Mr. Vollmer said there have not been disputes per se, but there have been instances when clarification was needed. He said when he was a school principal, he applied a "reasonably prudent administrator" standard in determining whether course requirements needed to be applied flexibly. He said without action by the Legislative Assembly, 2011 House Bill No. 1248 will sunset on July 31, 2013.

### **DIAGNOSIS AND TREATMENT OF CONCUSSIONS - CONTINUATION**

At the request of Chairman Kelsch, Dr. Billie Madler, President, North Dakota Nurse Practitioner Association, presented testimony ([Appendix E](#)) regarding the diagnosis and treatment of concussions by nurse practitioners. Dr. Madler said she is a nurse practitioner in a trauma center and an educator of nurse practitioner students at the University of Mary. She said the State Board of Nursing was consulted in the preparation of her testimony. She said nurse practitioners are advanced practice registered nurses whose scope of practice allows them to perform comprehensive assessments, diagnose, prescribe, and evaluate treatment plans. She said nurse practitioners meet the statutory requirement of being able to diagnose and treat concussions. She said most concussions lend themselves to diagnosis and management by primary care providers. She said nurse practitioners do have malpractice insurance.

In response to a question from Representative Grande, Dr. Madler said registered nurses do not meet the statutory requirement of diagnosing and treating concussions. She said only advanced practice nurses can diagnose and treat concussions.

In response to a question from Representative Hunsakor, Dr. Madler said her terminal degree is in the practice of nursing. She said a physician's terminal degree is in medicine.

In response to a question from Representative Kelsch, Dr. Madler said advanced practice registered nurses have a master's degree and are required to achieve national certification.

At the request of Chairman Kelsch, Ms. Debra A. Anderson, Deputy Executive Director, North Dakota Medical Association, presented testimony ([Appendix F](#)) regarding the diagnosis and treatment of concussions. Ms. Anderson said the interim committee should carefully consider the issue of return to play and draw a distinction between those providers who are qualified to diagnose a concussion and those providers who are trained in the treatment of concussions.

At the request of Chairman Kelsch, Dr. Tim Juelson, Bone & Joint Center, P.C., Bismarck, presented testimony ([Appendix G](#)) regarding the diagnosis and treatment of concussions. Dr. Juelson said the first step is to recognize that an athlete has sustained a concussion. He said the second step is to ensure that the athlete is withheld from further practice and play. He said the third step requires that the athlete be evaluated. He said an evaluation can take place at the sidelines. However, he said, a sideline evaluation is not a substitute for further examination at a later date. He said the vital component is that the athlete must be evaluated by a physician who is comfortable with concussion management and evaluation. He said a determination regarding return to practice or play involves appropriately gauging the severity of the head injury. He said obtaining and interpreting imaging studies, such as CT scans, require significant medical training, as does integrating that information with the condition and symptoms of the patient. He said physicians have the highest level of training among all health professionals.

In response to a question from Representative Hunsakor, Dr. Juelson said there are two separate issues that need to be addressed: Who can recognize a concussion and who can authorize an athlete's return to practice or play. He said physical therapists, athletic trainers, and emergency medical technicians can probably recognize a concussion. He said that determination alone should prohibit an athlete from practicing or playing that day, and it should require further evaluation.

In response to a question from Representative Kelsch, Dr. Juelson said the question before the committee is whether certain health care providers have the knowledge and expertise to diagnose, treat, and evaluate concussions. He said physicians, in general, will limit the patients with whom they work to particular areas of interest and expertise. He said this happens because of liability concerns.

At the request of Chairman Kelsch, Dr. Jeremiah Penn, University of North Dakota Center for Family

Medicine, Bismarck, presented testimony ([Appendix H](#)) regarding the diagnosis and treatment of concussions. Dr. Penn said he is a family medicine physician with special training in sports medicine. He said the fact that North Dakota is taking steps to acknowledge concussions and the risk that concussions pose to young athletes is a giant step forward. He said we are recognizing that concussions do not follow a well-defined course, but rather exhibit their own unique characteristics. He said suspecting or recognizing a concussion can be done by a variety of individuals. He said the tougher question is who has the expertise to determine when a young athlete should return to practice or play.

Dr. Penn said most concussions are going to improve within 8 days to 10 days. He said a few will not. He said up to 20 percent of patients are not going to have the simple 10-day recovery rate. He said those patients are being set up for significant long-term problems unless they are handled properly. He said those are the cases where physicians need to be actively involved.

Dr. Penn said a question was posed earlier with respect to physician competence and specifically, if a student athlete is being seen by the "dumbest" physician in a clinic, is that sufficient. He said, in order to become a physician, one must first obtain an undergraduate degree. He said, thereafter, one must complete medical school. He said the first year of medical school requires a study of basic sciences. He said one must learn the neural anatomy and study cross sections of the brain and the spinal cord. He said this involves learning about the functions of the brain and all the different areas of the brain that can be affected by a concussion. He said, thereafter, one studies neural physiology. He said this involves learning about the individual cells and how they function in a normal situation. He said this serves to provide an indepth background and understanding of what is "normal." He said the next step is to study pathology. He said this involves a study of abnormal processes. He said one learns about diseases in the most minute detail and acquires an understanding of what is happening within the body. He said that is tied in with all of the body systems. He said in medical school students learn about psychiatric issues--depression, anxiety, and cardiac complications that may be interrelated. He said after acquiring that background--the science, the laboratories, and the classes--one spends time on the wards. He said, there, the student can work one-on-one with a neurologist and accompany him or her while seeing patients. He said that happens extensively during the third-year and fourth-year of medical school. He said there is broad exposure to family medicine, radiology, neurology, etc. He said after all of that time and training, there is residency. He said if a student is going to specialize in family medicine, at a bare minimum, the student will receive three lectures pertaining to concussions. He said those lectures will include the latest developments and protocols. He

said the student also will receive a month of exposure to a sports medicine physician. He said when a student graduates from the University of North Dakota School of Medicine and Health Sciences, that individual will be very well-versed in the management of concussions. He said if a physician graduated in 1975, and does not care about concussions, that individual might not have the latest information about concussion management. However, he said, even that individual, by virtue of having trained as a physician, will have broad-based knowledge about human physiology and an understanding about the human condition. He said that individual will have the background to determine whether he or she can treat a student athlete who has been injured or whether the student athlete needs to be seen by a specialist.

Dr. Penn said he cannot take care of a concussion in 15 minutes. He said it requires a team approach that includes athletic trainers. However, he said, that team needs to have a physician, and any bill draft coming out of this committee should require that a physician be involved in determining whether a student athlete should return to practice or play.

In response to a question from Representative Grande, Dr. Penn said he believes athletic trainers are well-versed in the signs and symptoms of concussions. However, he said, if the student athlete has been referred to a physician, it should be the physician that makes the ultimate decision regarding the student's return to practice or play.

Dr. Dawn Mattern, Trinity Health, Minot, presented testimony regarding concussions in youth athletics. She said she is a family physician and also works in sports medicine. She said our understanding of concussions has changed tremendously in the last 10 years. She said in North Dakota there are 4,119 football players. She said, according to the latest research, 20 percent of them should have concussions during football season alone. She said that is 823.8 football players. She said a survey of school coaches was done recently. She said all but three schools were represented in the survey. She said the coaches claimed there were 232 concussions. She said we are missing concussions at an astronomical rate. She said students just do not know what constitutes a concussion. She said she believes that parents, physicians, and other health care providers also do not know. She said if physicians are the only ones that can clear a student athlete to return to practice or play, there will not be enough people available to catch all of the concussions that are out there. She said she believes that the athletic trainers can make decisions about which student needs to go home and with whom. She said she believes that athletic trainers know when to get help for the students.

Dr. Mattern said everyone needs education on concussion. She said the Centers for Disease Control and Prevention has created a 20-minute video that everyone should watch. She said we are never going to get rid of concussions. She said we are able to

evaluate them and manage them. She said we have allied health professionals who are fully capable of doing this. She said we do not have enough physicians to do this.

## EDUCATION FUNDING FORMULA CHANGES

Mr. Jerry Coleman, Director of School Finance, Department of Public Instruction, said even though initiated measure No. 2 was defeated, there is still an expectation that property tax relief will be pursued. He said the state's attempt at property tax relief was first generated through an income tax credit. He said that was felt to have had too many administrative challenges. He said now the state is issuing mill levy reduction grants in exchange for school districts lowering their levies by up to 75 mills.

Mr. Coleman said the framework for an adequacy-based formula, rather than an equity-based formula, would provide a guaranteed amount on a per student basis, to educate students to state standards. He said it requires a minimum local contribution. He said this is based on the recommendation of Picus and Associates. He distributed a document entitled *K-12 Funding Formula Options* ([Appendix I](#)).

Mr. Coleman said North Dakota still has a number of elementary districts. He said on a per student-driven formula, that still causes some issues for formula application. He said reservation districts that do not have local property valuations, districts that have very high or very low property valuations, and isolated districts all need to be accounted for within a workable formula. He said if property tax relief is the goal, the levy authority of the school districts also will have to be examined. He said there will probably have to be a period within which districts are held harmless and then "eased" into a new formula.

Mr. Coleman said there has been some examination of a new funding option that would include the current weighting system. He said the current formula is student-driven and makes adjustments for student characteristics as well as school district size. He said the new formula would ensure that every district has enough resources to meet the adequacy funding rate. He said any limitations on local contributions need to take into account expenditures that are not included within the cost of education. He said examples include transportation, tuition payments, and extracurricular activities.

Mr. Coleman said by eliminating the mill levy reduction formula and going to an adequacy funding scheme, the cost would be another \$26 million per year. He said while there is more equity available through an adequacy formula, the tradeoff is a reduction in local flexibility when it comes to determining funding status. He said one would need to determine how to handle the raising of money by districts for local choices. He said the formula also does not address school construction issues. He said

because of the increased number of students coming into the system, there will be an increase in the state appropriation for education.

In response to a question from Representative Headland, Mr. Coleman said the state's cost would be driven by the number of students and the cost of providing an adequate education.

Representative Headland said the districts that have strong tax bases now will be somewhat restricted by this kind of an approach.

In response to a question from Representative Kelsch, Mr. Coleman said the concept being discussed is a true foundation aid approach. He said it fits well with the constitutional mandate to provide a uniform system of education. He said transitioning to such a formula would be a challenge. He said, however, there always will be resistance.

In response to a question from Representative Headland, Mr. Coleman said implementing this formula will again have winners and losers.

Representative Kelsch said there has been confusion in the past. She said the mill levy reduction program was an effort to reduce property taxes. She said it was not a school district funding issue.

In response to a question from Representative Kelsch, Mr. Coleman said the high valuation school districts would benefit if they had more students.

In response to a question from Representative Grande, Mr. Coleman said with increases in state funding for education come decreases in local control. He said an adequacy-based formula would cover the full gamut of educational costs, including teacher salaries, heat, and electricity. He said the exceptions would be the same as those that are currently excluded from the cost of education: transportation, tuition, vocational education, capital outlay for buildings and sites, and extracurricular activities.

Representative Kelsch said school districts would have to comply with the graduation requirements. She said, potentially, this could reduce the number of elective courses. She said this type of a formula would meet the constitutional requirements put on the state. She said districts would still have to have some levy authority to address those costs not included by the state.

Senator Cook said idealism and realism often collide. He said every legislator is going to want a printout before pursuing this.

Representative Kelsch said some western districts are concerned about the delay in counting students. She said some are wondering if using PowerSchool to provide monthly payments would not be a better idea.

Mr. Coleman said real-time student counts are possible but it could impact budgeting efforts.

Representative Kelsch said impact aid grants could be given to certain school districts rather than returning to the counting of "phantom" students. She said care would still have to be taken to ensure that equity issues are not created.

Mr. Coleman said he hopes that the formula would not be reconfigured to address a small number of impacted districts.

Senator Cook said the three property tax relief bills in 2007, 2009, and 2011 did not come without a substantial amount of concern and resistance. He said the issue of sustainability was foremost in many people's minds. He said going to an adequacy-based formula would increase the issue of sustainability.

Mr. Mark Weston, Superintendent, Casselton, said his school board chose not to go to the 185-mill cap in order to receive 75 mills back from the state. He said he would like the Legislative Assembly to prevent school districts from levying mills that they do not need for any reason other than chasing state dollars. He said the rapid escalation of state spending is not sustainable. He said sustainability and fiscal responsibility are concerns at the local level. He said the challenge is achieving sustainability and fiscal responsibility within a framework of equity.

**It was moved by Representative Grande, seconded by Representative Headland, and carried on a voice vote that the meeting be adjourned.**

No further business appearing, Chairman Kelsch adjourned the meeting at 4:00 p.m.

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L. Anita Thomas  
Committee Counsel

ATTACH:9