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## **EDUCATION FUNDING COMMITTEE**

Thursday, June 16, 2022  
Harvest Room, State Capitol  
Bismarck, North Dakota

Senator Donald Schaible, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Senators Donald Schaible, JoNell A. Bakke, Jay R. Elkin, David S. Rust, Michael A. Wobbema; Representatives Donald Longmuir, David Monson, Mark S. Owens, Denton Zubke

**Member absent:** Representative Ron Guggisberg

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

**It was moved by Senator Rust, seconded by Representative Monson, and carried on a voice vote that the minutes of the October 7, 2021, and February 24, 2022, meetings be approved as distributed.**

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

Mr. Adam J. Tescher, Director, School Finance and Organization, Department of Public Instruction, provided information ([Appendix B](#)) regarding enrollment and state school aid. He noted:

- Based on current enrollment estimates and estimated local contributions to the state school aid formula, the Department of Public Instruction (DPI) anticipates approximately \$47 million of state school aid will remain unspent at the end of the 2021-23 biennium. State school aid expenditures are estimated to be less than budgeted due to lower enrollment, higher local in lieu of revenue than anticipated in the budget, and lower than anticipated impacts from on-time enrollment.
- Enrollment for the 2021-22 school year is anticipated to be 113,024 students and enrollment for the 2022-23 school year is estimated to be 115,543 students. Enrollment for the 2023-24 school year is projected to total 117,553, and reflects a significant drop in kindergarten students due to decreased births in 2018.
- DPI is projecting enrollment to be relatively unchanged during the 2023-25 biennium and the cost to continue state school aid is anticipated to be \$18.9 million less than the 2021-23 biennium appropriation. Additional costs related to increases in the school size weighting factor and the phase-out of the transition maximum adjustment are offset by savings related to the phase-out of the transition minimum adjustment and increases in property valuations, which increase the local contribution to state school aid.

In response to a question from a committee member, Mr. Tescher noted when determining the 60-mill deduction in the state school aid formula, DPI prepares an estimate of property values by determining the average percent change in property value over the prior 2 years and applying a 0 percent minimum and 8 percent maximum change.

Mr. Tescher provided information ([Appendix C](#)) regarding the impact of state school aid formula changes on state school aid provided during the 2021-23 biennium, including the impact of school districts that continue to not be on the formula during the 2021-23 biennium and the impact of transition minimum reductions on reorganized and consolidated school districts. He indicated the schedule only includes school districts impacted by formula changes and the five reorganized schools benefiting from additional weighting factors for two plants are highlighted. He noted:

- State school aid was reduced for 90 school districts by a total of \$6.55 million as a result of the transition minimum phase-out. The decrease in the transition minimum, 15 percent per year starting with the 2021-22 school year, was approved in 2019 but delayed one biennium. Unless there is an increase in the per-student payment, which would lower the school's minimum adjustment, the \$6.55 million reduction should remain consistent each year until the transition minimum adjustment is phased out.
- School size weighting factors were increased to offset funding cuts related to the phase-out of the transition minimum adjustments. In addition to the increase in the weighting factors, elementary school enrollments were converted to apply K-12 school size weighting factors to elementary school districts. The change in school size weighting factors increased weighted student units in 78 school districts and reduced weighted student units in the two largest elementary school districts for a net increase of 323 weighted student units.
- Of the school districts impacted by the transition minimum phase-out, 57 school districts benefited from the increase in school size weighting factors and the school size weighting factor decreased one elementary school district.
- There were 21 small school districts that benefited from the increase in school size weighting factors even though funding was not reduced for the transition minimum phase-out.
- A total of 59 school districts took advantage of the suspension of the ending fund balance limit.
- The phase-out of the tuition deduction for Air Force base tuition increased state school aid for two school districts by \$900,000.
- The reorganized school district weighting factor for districts that operate two plants at least 19 miles apart, available for only the 2022-23 school year, is anticipated to impact five school districts and increase state school aid by \$3.6 million.

Ms. Kirsten Baesler, Superintendent of Public Instruction, provided information regarding the allocation of federal Elementary and Secondary School Emergency Relief (ESSER) funds ([Appendix D](#)) to school districts and uses of the funds ([Appendix E](#)). She noted:

- In April 2020, the state received ESSER I funds totaling \$33.30 million, including \$30.06 million allocated to school districts, which must be spent by September 30, 2022. Of the \$30.06 million allocated to school districts, \$28.33 million has been expended and \$1.73 million remains to be spent.
- In December 2020, the state received ESSER II funds totaling \$135.92 million, including \$123.37 million allocated to school districts, which must be spent by September 30, 2023. Of the \$123.37 million allocated to school districts, \$39.53 million has been expended and \$83.84 million remains to be spent.
- In March 2021, the state received ESSER III funds totaling \$305.27 million, including \$275.92 million allocated to school districts, which must be spent by September 30, 2024. Of the \$275.92 million allocated to school districts, \$26.77 million has been expended and \$249.15 million remains to be spent.
- 90 percent of ESSER funds were allocated to school districts based on the Title I funding formula, which includes free or reduced lunch eligibility. The remaining 10 percent is available to DPI for statewide efforts.
- All expenditures must relate to preventing, preparing for, or responding to COVID-19 and 20 percent of all funds allocated to school districts must be spent on services to accelerate student learning recovery.
- Reported uses of ESSER funds by school districts include educational technology (20.23 percent), address learning loss (18.86 percent), air quality improvements (9.50 percent), school facility repairs and improvements (9.03 percent), transportation (6.24 percent), and cleaning supplies (5.69 percent). Other uses that each totaled less than 5 percent include additional pay, high-quality instructional materials and curricula, renovation projects, mental health supports, supplemental learning, preparedness and coordination, public health protocols, professional development, budgetary shortfalls, acquisition of real property or modular classrooms, added needs of at-risk populations, construction projects, other activities, emergency response coordination, special education, career and technical education, the federal Every Student Succeeds Act, adult education, and family literacy.

In response to a question from a committee member, Ms. Baesler noted funds are held by DPI until reimbursement is requested for eligible expenditures by the school district.

Ms. Baesler provided information ([Appendix F](#)) regarding uses of the 10 percent discretionary ESSER funds (\$47 million) appropriated to DPI, including allocations for various programs and partnerships. She noted, in addition to the cost of administering the grant funding, the department has allocated the state's discretionary funding to the following programs:

- A Department of Human Services (DHS) early learning partnership totaling \$9 million, including Early Learning - Best In Class (\$4.96 million), Waterford Upstart (\$1.70 million), and Bridge from Commerce - Best in Class (\$2.34 million);
- Comprehensive literacy site expansion grants (\$5 million);
- Science of reading teacher professional development (\$2 million);
- Afterschool and summer program expansion (\$2 million);
- Grow-your-own teacher shortage grants totaling \$1,839,000, including grants for special education at Minot State University (\$664,000), education at University of Mary (\$575,000), and additional education grants (\$600,000) available in fall 2022;
- Financial transparency website infrastructure (\$1.36 million);
- School food innovation grants (\$1.26 million);
- Partnership with regional education associations for priority standards workshops (\$1.14 million);
- Grants to school districts not eligible for ESSER funds through the federal formula (\$1.07 million);
- Exact Path single signon online learning for families (\$1.04 million);
- LINCspring online teaching professional development (\$1 million);
- Multitiered systems of support (\$800,000);
- Choice ready grants (\$800,000);
- Incentivize cost-sharing of district administration (\$750,000);
- Partnership with the Parks and Recreation Department for summer learning (\$600,000);
- Mathematics innovation zones (\$600,000);
- "Be Legendary" school board leadership institute (\$500,000);
- Personalized, competency-based learning scale work (\$500,000);
- Grants to special education units (\$452,947); and
- High-impact tutoring (\$400,000).

In response to a question from a committee member, Ms. Baesler noted the contract with Edmentum, Inc., for single signon learning will be supported through 2024, after which school districts may contract for services at the state rate.

In response to a question from a committee member, Ms. Baesler noted from the beginning, DPI suggested school districts use the first one-third of their ESSER funds for the most immediate needs, the next one-third for new programs, and the remaining one-third on programs that proved effective. She noted when ESSER funding is exhausted, school districts will have to decide which programs have the most impact and can be provided within existing funding streams.

### **OTHER COMMITTEE RESPONSIBILITIES**

Ms. Baesler provided information ([Appendix G](#)) regarding an aggregated report of school districts receiving allocations from the ESSER Fund pursuant to Section 24 of House Bill No. 1013 (2021). She noted:

- Section 24 of House Bill No. 1013 required school districts to report to the Superintendent of Public Instruction by December 1, 2021, information regarding learning loss, including subgroup gaps; school district plans to accelerate learning recovery for all students, including closing subgroup gaps; uses of ESSER funds, including the percentage of those funds expended by category; and the impact ESSER Fund expenditures had on accelerating learning recovery. The Superintendent is required to present an aggregated report to the Legislative Management by June 1, 2022.
- School districts are required to submit a second report to the Superintendent by December 1, 2022, and the aggregated report must be presented by the Superintendent to the 68<sup>th</sup> Legislative Assembly.

- School districts reported significant learning loss among students with disabilities and students with an individualized education plan (IEP) (48 percent of the school districts), low-income students (39 percent of the school districts), English language learners (17 percent of the school districts), and one or more racial or ethnic subgroups (30 percent of the school districts).
- DPI used discretionary ESSER funds to partner with SAS Institute ([Appendix H](#)) to leverage existing assessment data to project what student assessment scores would have been without the pandemic disruption. Projected assessment scores were compared to students' actual performance on the 2021 state assessment. The analysis investigated learning declines across subjects and grades, schools, districts, and student groups. Findings include:
  - English language arts test scores for students in grades 5 through 8 and grade 10 were close to prepandemic expectations. The impact in this subject area was less in North Dakota than was noted in similar analyses in North Carolina, Ohio, and nationally.
  - Mathematics test scores for students in grades 5 through 8 and grade 10 suffered observable learning decline.
  - About 40 percent of schools met or exceeded prepandemic expectations in English language arts and about 30 percent of schools met or exceeded prepandemic expectations in mathematics.
  - Overall, students at all levels of achievement experienced similar levels of learning decline. Some student groups saw differences in learning decline compared to their peers but most mirrored prepandemic differences. However, the gap widened for English language learners, students with disabilities, low-income students, homeless students, Native American students, and male students.
- Districts plan a variety of strategies to address learning loss, most commonly new or additional technology (80 percent of school districts), hiring additional personnel (78 percent of school districts), health-related supports (71 percent of school districts), and new curricula (70 percent of school districts).
- Districts' plans to close subgroup gaps varied widely, including reviewing IEPs, increasing minutes of service for students showing significant loss, and incentivizing teachers to earn credentials or endorsements to serve English language learners or students with disabilities.
- Districts reported a range of positive outcomes resulting from accelerating learning recovery funding, including increased learning in mathematics and English language arts (43 percent of school districts) and increased learning in other subjects (14 percent of school districts).
- North Dakota state assessment data from spring 2021 indicated a reduction in the percentage of proficient and advanced students when compared to assessment data from spring 2019, in all grades tested for English language arts and mathematics. There was no assessment in 2020. Preliminary state assessment data from spring 2022 indicates an increase in proficient and advanced students in some grades; however, the percentage of proficient or advanced students continued to decrease in grade 8 English language arts and grades 7, 8, and 10 mathematics.

In response to a question from a committee member, Ms. Baesler noted there was no significant difference in outcomes for Native Americans attending school on or off a reservation. She noted learning supports had been successful in narrowing the learning gap and increasing graduation rates among Native American students but their expected trajectory was likely impacted by a disruption in those learning supports, resulting in a significant learning decline during the pandemic.

## **ELEMENTARY AND SECONDARY EDUCATION STATE AID AND FUNDING FORMULA STUDY - CONTINUED**

Ms. Melanie Aeschliman, State Supervisor of Assessments, Tax Department, provided information ([Appendix I](#)) regarding school district budget timelines, budget deadlines, and the availability of budget information. She noted:

- All taxing districts are required to provide a preliminary budget statement to the county auditor prior to August 10.
- The latest date for taxing districts to hold budget hearings and adopt final budgets and tax levies is October 7 and taxing districts must send copies of final budgets and tax levies to county auditors by October 10.
- Prior year assessments and other statistical information are available on the Tax Department website.

In response to a question from a committee member, Mr. Brandt Dick, Superintendent, Underwood School District, noted school district budgeting challenges include securing timely and accurate property assessment data and the possibility of miscellaneous revenue arriving in June that may drive the ending general fund balance over the June 30 statutory limit.

Mr. Tescher provided a summary ([Appendix J](#)) of special education contract reimbursements, by provider, made to school districts during the 2019-21 biennium and biennium to date during the 2021-23 biennium, including total cost and amounts reimbursed. He noted:

- When a student is placed in a residential setting by an agency or a parent, school districts are reimbursed for costs exceeding the state average cost of education per student; however, when a student is placed by the school district, state reimbursement is made for costs exceeding four times the state average cost of education per student or for costs exceeding 2 percent of the total school district budget. Payments are made by school districts to providers and to other school districts for students in foster care or for students living in residential facilities that do not have an education system, but rely on the local school district. In addition, school-placed students can include high-cost students who remain in their school district and the school district is reimbursed for the excess cost.
- School districts receive the state school aid per student payment of approximately \$10,000 for students placed in residential facilities and are responsible for the state average cost per student of just over \$12,000 (approximately \$48,000 for students placed by the school district).
- During the 2019-21 biennium, the state reimbursed school districts \$19.9 million of the \$25 million cost of agency-placed students and \$6.7 million of the \$32.8 million cost of school-placed students. Of the \$25 million cost to school districts for agency-placed students, \$10.3 million was paid to the Anne Carlsen Center, of which \$9.1 million was reimbursed by the state.
- Biennium to date for the 2021-23 biennium, the state has reimbursed school districts \$8.7 million of the \$11.1 million cost of agency-placed students and \$2.3 million of the \$12.8 million cost of school-placed students. Biennium to date, of the \$11.1 million cost to school districts for agency-placed students, \$4.4 million was paid to the Anne Carlsen Center, of which \$3.8 million was reimbursed by the state.

In response to a question from a committee member, Mr. Tescher noted DPI is only to cover the cost of education. Room and board is paid by insurance or the parent.

In response to a question from a committee member, Mr. Tescher noted DPI does not have a system to audit the costs billed to school districts by residential facilities.

Ms. Michele Well, Education Director, Anne Carlsen Center, provided information ([Appendix K](#)) regarding services provided to residents and reimbursements received from DHS and school districts, including information regarding the types of services reimbursed. She noted:

- All students served at the center have been diagnosed with intellectual disabilities and nearly one-half of the center's licensed beds are occupied by students with complex medical needs. The center also serves students with autism, which requires significant supports.
- The center partners with Jamestown Public Schools to provide education in the least restrictive environment and currently provides 175 days of instruction to 58 students, including day students, which represent approximately 18 percent of the student population.
- In addition to educators, the center employs support staff necessary to provide individualized special education for students with complex needs, including licensed clinical social workers, case management, board-certified behavior analysts, registered behavior technicians, nurses, speech pathologists, and occupational and physical therapists.
- Tuition includes special education, behavioral support services, nursing, vocational and community training, adaptive physical education, learning and media center assistive technology, transportation, adaptive technology, educational administration, and overhead (maintenance, building, and administration).
- Extracurricular activities, afterschool clubs, athletic activities, and spiritual care are not included in tuition.
- Speech, occupational, and physical therapy are provided as determined in the student's IEP but are not included in tuition costs. Therapy units are itemized per student and billed separately.

In response to a question from a committee member, Ms. Well noted boarding or residential costs are not billed to school districts.

Ms Tina Bay, Developmental Disabilities Director, Department of Human Services, provided information ([Appendix L](#)) regarding the types of developmental disabilities services that qualify for reimbursement under the Medicaid program. She noted:

- The Medicaid state plan provides for intermediate care facilities for individuals with intellectual disabilities, personal care services, and targeted case management with personal care services. Intermediate care facilities for individuals with intellectual disabilities is the highest level of service authorized. The inclusive rate paid to providers is based on the level of need and includes room and board, but does not include education services.
- The Medicaid home- and community-based services waiver program provides services that allow individuals with developmental or intellectual disabilities to live in their own home and receive services in the community. Waiver funding may not be used to pay for special education and related services included in a child's IEP. However, some services in the IEP may qualify as basic Medicaid benefits.

Mr. John Porter, Special Education Director, South Valley and Rural Cass Special Education Units, noted:

- Because students at the Anne Carlsen Center are Medicaid eligible, services indicated in their IEP for speech, occupational, and physical therapies are all Medicaid services that could be billed through education services; however, the Anne Carlsen Center is not allowed to bill Medicaid for education-based services.
- Approximately 20 percent of the amount paid to the Anne Carlsen Center by South Valley and Rural Cass Special Education Units is for services that could be billed through Medicaid, such as speech, occupational, and physical therapies. If these therapies could be billed to Medicaid—rather than to the local education agency and the state contract system, where it is reimbursed by DPI—there would be a savings to the state.
- To leverage the federal dollars, Mr. Porter suggested the Legislative Assembly review the possibility of allowing the Anne Carlsen Center to bill Medicaid for education-based services.
- Local education agencies are required to pay for services at facilities such as the Anne Carlsen Center throughout the school year. The upfront cost is significant and most of the cost is reimbursed through the special education contract system at the end of the school year. It may be more efficient to have DPI pay facilities directly rather than reimburse local education agencies.
- Stakeholders also are reviewing the open enrollment system to determine if improvements can be made regarding funding exchanged between school districts for open-enrolled students and the impact of the funding on the state school aid formula.

In response to a question from a committee member, Mr. Porter said DHS would be responsible for allowing the Anne Carlsen Center to bill Medicaid for education-related services. He noted because therapists at the Anne Carlsen Center hold the appropriate licenses and IEPs document the need for services, the center should meet the requirements to bill for these educational services. He indicated if therapy is a medical need and the cost is billed through DHS as a medical service rather than educational services through the school district, the federal match would be paid by DHS instead of the school district, further reducing costs to school districts.

### **CAREER AND TECHNICAL EDUCATION STUDY**

Mr. Wayde Sick, Director, Department of Career and Technical Education, provided information ([Appendix M](#)) regarding an update on funds awarded for the statewide area career center initiative grant program, including information regarding compliance with legislative intent that school districts provide for any future operating and maintenance costs relating to new or expanded programs. He noted:

- During the November 2021 special legislative session, the funding for a statewide area career center initiative grant program was modified because, in addition to enabling work and education, federal guidance released in September 2021 required federal Coronavirus Capital Projects Fund projects to include health monitoring. The Legislative Assembly provided \$88.3 million of one-time funding anticipated to be received through the federal American Rescue Plan Act of 2021 from the Coronavirus Capital Projects Fund (\$68.3 million) and from the federal State Fiscal Recovery Fund (\$20 million) for a statewide area career center initiative grant program. Preference was to be given to applications that foster cross-district partnerships and involve postsecondary and workforce training partnerships. Applicants need to provide one-to-one matching funds and grants will range from \$500,000 to \$10 million.
- The Office of Management and Budget submitted the application for funding from the Coronavirus Capital Projects Fund to the Department of the Treasury on December 27, 2021, and the grant agreement has been executed. The grant plan, which will be used by the Department of the Treasury to assess the proposed use of funds, was submitted February 1, 2022. Federal guidance requires projects to directly

enable work, education, and health monitoring; address a critical need that resulted from or was made apparent by the COVID-19 public health emergency; and address a critical need of the community. The state's grant plan has not yet been approved by the Department of the Treasury.

- The State Board for Career and Technical Education approved 3 of the more shovel-ready project applications in January 2022, funded by \$20 million from the State Fiscal Recovery Fund, and 13 additional applications in March, funded by \$68.3 million from the Coronavirus Capital Projects Fund. Selection criteria included consideration of the facility and governance, including information regarding location and allocation of space and partner school districts; needs assessment and programming, including workforce needs and student interests and how proposed and expanding programs align with needs assessment results; postsecondary and workforce partners, including postsecondary and workforce offerings to be housed within the facility; and budget proposal, including a detailed budget and match commitments.
- Grantees are concerned the grant plan has not yet been approved by the Department of the Treasury. Inflation is causing increases in construction costs and grantees anticipate asking for additional funds to complete the projects as submitted.
- Career and technical education centers have indicated additional support for ongoing operations is vital. The Department of Career and Technical Education is reviewing program costs for the 2023-25 biennium budget and in addition to new programs coming online, the department must consider the increase in reimbursement rates for current programs that may move from a high school to a career center.

In response to a question from a committee member, Mr. Sick noted it is not known when the federal funding will be available. Loan funds from the Bank of North Dakota could provide immediate cash; however, if the grant plan is not approved by the federal government, the projects would be in debt. He noted while the grant plan meets the federal criteria, there is no guarantee that it will be approved.

Dr. Jeff Fastnacht, Assistant Superintendent, Mandan Public Schools, and Chairman, State Board for Career and Technical Education, noted the career centers included in the grant program will benefit 99 partner school districts. He noted because inflation is a concern and most of the career and technical education teachers are coming from the workforce, salaries must be competitive.

Dr. Aimee Copas, Executive Director, North Dakota Council of Educational Leaders, provided information compiled by a member of the council's focus group regarding the impact of inflation on school budgets in the current biennium. She noted the cost of salaries and benefits for teachers and instructional support is approximately \$88 million more than anticipated in the current biennium, an increase of approximately 3.7 percent. She indicated if overall operations are included, school districts' total deficit increases to approximately \$148.5 million.

Chairman Schaible noted the committee has completed its work, and while there are no bill drafts proposed by the committee, information gathered by the committee may result in legislation proposed by individual legislators.

**It was moved by Representative Owens, seconded by Representative Zubke, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and to present the report to the Legislative Management.**

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

No further business appearing, Chairman Schaible adjourned the committee sine die at 2:00 p.m.

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Sheila M. Sandness  
Senior Fiscal Analyst

ATTACH:13