

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EDUCATION FINANCE COMMITTEE

Monday, April 20, 1998
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Layton Freborg, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Layton Freborg, Jerome Kelsh, Rolland W. Redlin; Representatives James Boehm, Michael Brandenburg, Lois Delmore, Pat Galvin, William E. Gorder, Bette E. Grande, Howard Grumbo, Lyle L. Hanson, Dennis Johnson, Richard Kunkel, David Monson

Members absent: Senators Dwight C. Cook, Tony Grindberg, Les J. LaFountain, Terry M. Wanzek, Jim Yockim; Representatives Rick Berg, RaeAnn Kelsch

Others present: See Appendix A

It was moved by Senator Redlin, seconded by Representative Grande, and carried on a voice vote that the minutes of the previous meeting be approved as mailed.

At the request of Chairman Freborg, Dr. Wayne Sanstead, Superintendent of Public Instruction, presented testimony regarding the provision of funding for economically deprived students. He distributed a document entitled *State and Federal Efforts to Target Poor Students*. The document is attached as Appendix B. He said North Dakota expends 78 cents per student of state funds and \$8.39 per student of federal funds to target poor students in our schools.

Dr. Sanstead said there will be a carryover of approximately \$12 million at the end of the current biennium. He said this money was appropriated for education and should be redesignated for education. He said the funds are dedicated funds, not general fund moneys. He said because student counts dropped, the size of this carryover increased. He said three-fourths of the school districts experienced a decline in students. He said the state's birth rates this year are again low.

Dr. Sanstead said if the carryover is not rededicated to per student payments, alternative uses would include technology. He said some districts are way ahead of others and some are woefully behind. He said perhaps some of the money could be used as incentives for districts to deal with their declining enrollments. He said, last but

not least, school construction would be a viable use for the carryover dollars.

Dr. Sanstead said \$9 million of the \$12 million carryover is due to declining enrollment. He said we are again expecting another decline in student numbers this year, although hopefully, not as large as the previous one. He said the decline might be as low as 750 or as high as 1,450 students. He said school districts need incentives to encourage them to deal positively with these figures.

Dr. Sanstead said the agricultural sector is suffering horrendous losses. He said this will undoubtedly increase student losses in rural areas.

Dr. Sanstead said it is time to start looking seriously at identifying schools that are necessary in the long term and to minimize damage to them due to declining enrollment. He said one of the most important things we can do is require all land to be in a high school district. He said this concept has been advocated for 30 years. He said this would shore up the enrollment and help build a tax base that can support education.

Dr. Sanstead said there are no easy solutions. He said all the good choices are gone. He said the result of not acting will force every district into staff and program cuts. He said even with this not all of the districts will survive. He said some district administrators are willing to blame their troubles on declining enrollment statistics publicized by the Department of Public Instruction. He said the statistics that the department uses are not their own but rather come from North Dakota State University.

At the request of Chairman Freborg, committee counsel summarized a bill draft that would permit school district building fund levies to be used for the purchase and maintenance of education technology and the salaries of school district personnel who would supervise the use and maintenance of the educational technology. Committee counsel said the bill draft defines educational technology as including computers,

computer software, computer networks, and other computerized equipment.

At the request of Chairman Freborg, Mr. Tom Decker, Department of Public Instruction, presented testimony regarding school districts that have a technology or a building fund levy. He distributed a document entitled *Districts Having A Technology or Building Fund Levy*. The document is attached as Appendix C. He said the proposed bill draft would provide more money for technology, but it would also create equity problems. He said there are a significant number of school districts that have difficulty passing any kind of levy. He said they would be juxtaposed against districts that could have technology levies of 25 mills. He said this proposal begins to mix expenditures for capital construction with salaries. He said this becomes difficult from an accounting perspective.

In response to a question from Chairman Freborg, Mr. Decker said technology has become such a central part of providing education that one has to view it as being essential, just as textbooks are essential. He said it would be much preferred to allow a levy of 10 mills by board resolution. He said school boards need some minimum discretionary authority, both with respect to technology and general building maintenance. He said the salary for computer maintenance should not be provided from a building tax.

It was moved by Representative Monson, seconded by Representative Boehm, and carried on a roll call vote that the bill draft be amended to delete the reference to staff salaries on page 2, lines 14 and 15. Senators Freborg, Kelsh, and Redlin and Representatives Boehm, Brandenburg, Delmore, Galvin, Gorder, Grande, Grumbo, Hanson, Johnson, Kunkel, and Monson voted "aye." No negative votes were cast.

It was moved by Senator Kelsh and seconded by Representative Delmore that the bill draft be amended to provide that any funds raised in this manner can be used only as a match for state funds.

In response to a question from Representative Grande, Senator Kelsh said under his motion a school district would not be able to use these funds to buy equipment unless there were state matching funds. He said we need to maintain state involvement in funding educational opportunities, rather than allowing districts to fund technology solely out of property taxes.

In response to a question from Senator Freborg, Senator Kelsh said he would be in favor of allowing school boards to raise an additional 10 or 15 mills for such purposes by board resolution, as long as the funds were to be used as matching funds. He said a lot of districts will view

10 to 15 mills as too large an amount to be levied by board action. He said if the dollars were to match a state contribution, it would be much more palatable.

Representative Monson said 15 mills statewide would require a sizable contribution of state dollars. He said if the Legislative Assembly allows school districts to raise property taxes by another 15 mills, legislators will hear about it.

Senator Kelsh said if the Legislative Assembly goes in any other direction, the effect will be one of raising property taxes without requiring any state level contribution.

In response to a question from Senator Freborg, Senator Kelsh said he could support distributing another \$5 million from the carryover for technology if there was a state/local match.

Representative Monson said the Langdon School District cannot even pass a building fund levy to fix their roof. He said there are a lot of districts in the same boat.

Senator Kelsh said the purpose of his motion was to stop the rise in property taxes.

In response to a question from Representative Grande, Senator Freborg said the use of the building fund for technology provision might be removed if we allow a levy by board resolution.

Senator Redlin said it would be neither fair nor right to require that school districts raise property taxes without a like input from the state.

The motion failed to pass. Senators Kelsh and Redlin and Representatives Delmore, Grumbo, and Hanson voted "aye." Senator Freborg and Representatives Boehm, Brandenburg, Galvin, Gorder, Grande, Johnson, Kunkel, and Monson voted "nay."

It was moved by Representative Kunkel and seconded by Representative Grande that the bill draft be amended to provide that up to the first \$7 million of the carryover may be used as a state match, and local districts could levy their matching amounts by board resolution.

In response to a question from Representative Monson, Senator Freborg said it would have to be clarified whether we should require the funds to come from the building fund levy or from other funds.

In response to a question from Senator Freborg, Mr. Decker said school districts should be made to use general fund moneys or be given the opportunity to levy five mills for technology by board resolution. He said this concept would then replace the existing computer technology levy for which voter approval is required.

Representative Monson said few districts have a technology levy. He said more districts have a building fund levy and it would be a better idea to

allow districts to use money in a building fund levy rather than require that they raise another five mills.

Senator Freborg said the motion should be amended to allow school districts to use money from either their general funds or their existing technology levy or to apply a five-mill levy for technology by board resolution. He said under this scenario the existing technology levy would be eliminated.

Senator Redlin said some school districts have had to be very precise with respect to how they can use their building levies. He said if the Legislative Assembly impinges on that, there will be a loss of confidence among the people.

In response to a question from Senator Freborg, Senator Redlin said he would like to maintain a voter-approved technology levy.

Representative Boehm said if the purpose is to give additional money for technology, the Legislative Assembly should just distribute the \$7 million on a per student basis.

Representative Delmore said we need to require districts to make an effort in the area of technology.

Representative Boehm said we are requiring districts to raise property taxes. He said if we already have a technology levy on the books, districts can go ahead and use that.

Mr. Decker said \$7 million is only about half of what we need to meet our technology requirements. He said a discretionary local match would be a much better idea.

Representative Brandenburg said requiring a local match and allowing the money to be raised by board resolution rather than a vote of the people will in fact raise property taxes.

In response to a question from Senator Freborg, Mr. Decker said many districts are using general fund dollars to purchase technology. He said much of the technology we do have in our schools is outdated. He said we need to have a catchup period. He said there are only a few districts that are not already spending very nearly that which would be their matching amount.

In response to a question from Representative Gorder, Senator Freborg said if districts do not have the money available, they would have to raise their share. He said more than likely the amount the district is already spending on technology would meet their local share.

It was moved by Representative Kunkel, seconded by Representative Grande, and carried on a voice vote that their motion be withdrawn.

It was moved by Representative Kunkel and seconded by Representative Grande that the bill draft be amended to provide that the first

\$7 million of any carryover be dedicated as state matching dollars for technology acquisitions by school districts, that school districts be allowed to use existing moneys from their general fund or the current technology levy to raise their matching shares, and that the existing technology levy be replaced by one that allows up to five mills to be raised for the purpose of technology acquisition by resolution of a school board. The motion carried on a roll call vote. Senators Freborg, Kelsh, and Redlin and Representatives Delmore, Galvin, Grande, Grumbo, Hanson, Johnson, Kunkel, and Monson voted "aye." Representatives Boehm, Brandenburg, and Gorder voted "nay."

Chairman Freborg called on committee counsel, who summarized a bill draft regarding state aid intercept and credit enhancement.

At the request of Chairman Freborg, Mr. Tom Tudor, North Dakota Municipal Bond Bank, presented testimony regarding the bill draft. His testimony is attached as Appendix D. He said by participating in the program set forth under this bill draft, a school district would be able to pool its borrowing, thereby spreading the costs of issuance among all participating districts and consequently lowering costs.

In response to a question from Senator Redlin, Mr. Tudor said when a school district issues bonds under North Dakota law, the taxes are levied until the obligation is paid. He said this bill draft does not shore up any bonds that are presently outstanding. He said through pooled borrowing, the fixed costs normally borne by each individual school district would be lumped together and would be lowered. He said the interest rates would also be lowered through the pooled borrowing. He said the interest rates that the municipal bond bank can obtain are lower than those obtainable by any single school district.

In response to a question from Representative Delmore, Mr. Tudor said he does not know how many school districts would participate in such a program. He said participation is voluntary. He said once a tax is certified for collection, that tax must be levied every year while the bonds are outstanding. He said there has never been a default on a general obligation bond issue by a school district. He said the likelihood that these provisions would ever be used are very small. However, he said, on paper the provision helps guarantee the loan. He said the bonds would sell very well because there is very little risk.

In response to a question from Senator Freborg, Mr. Tudor said a 20-year bond issue would be very close to the five percent level. He

said the bill draft would allow the bonds to have a stronger credit enhancement.

Chairman Freborg said since there are no motions to amend this bill draft, it should be readied for final consideration at the next committee meeting.

At the request of Chairman Freborg, committee counsel summarized a bill draft that raises the coal development trust fund school construction loan limit from \$25 million to \$40 million.

At the request of Chairman Freborg, Mr. Decker presented testimony regarding school construction loans. He distributed a document entitled *School Construction Loan Program - Loan Balances and Payments*. The document is attached as Appendix E. He said the bill draft would increase access to principal.

In response to a question from Senator Freborg, Mr. Decker said the Superintendent of Public Instruction allows school construction loans in amounts up to one-third of the project costs, with a \$2.5 million cap. He said a district cannot be in debt for more than its taxable valuation. He said the formula represents a district's ability to raise money. He said that is why there is a variation in the interest rates.

In response to a question from Representative Gorder, Mr. Decker said a district needs to have construction approval from the Superintendent of Public Instruction and it needs to have capital debt in place or authorized in an amount equal to 15 percent of its taxable valuation. He said if a district does not meet this criteria, it is not eligible for a loan.

In response to a question from Senator Freborg, Mr. Decker said there are an increasing number of districts for whom a major building replacement project is pretty nearly beyond their means.

At the request of Chairman Freborg, Mr. Bob Olheiser, State Land Commissioner, distributed a document entitled *Projected Impact of Coal Development Trust Distributions*. The document is attached as Appendix F. He said the coal development trust fund will have \$50.5 million in the fund. He said the full \$25 million will be loaned out by June 1998. He said if one were to raise the school loan fund from \$25 million to \$40 million, there would be a general fund impact of approximately \$.5 million during 2000-01 and a general fund impact of approximately \$1.1 million each biennium thereafter. He said this does not address the impact to the general fund from the initial \$15 million loan amount.

In response to a question from Representative Monson, Mr. Olheiser said this money is part of

the pool of resources that contribute to the state general fund.

In response to a question from Representative Grande, Mr. Olheiser said the board's investment philosophy could be changed to accommodate the interest losses, but there would be greater risk to the investment. He said if the limit is raised to \$40 million, all \$40 million will be used for school construction. He said that money will not be available for short-term investments.

In response to a question from Senator Redlin, Mr. Decker said the one percent interest rates are going to school districts that are carrying debt equal to 75 to 90 percent of their taxable valuation.

In response to a question from Representative Gorder, Mr. Decker said the increase of \$15 million in loans available from the coal development trust fund will be used almost as soon as it is available.

Chairman Freborg said since there are no motions to amend this bill draft, it should be readied for final consideration at the next committee meeting.

At the request of Chairman Freborg, committee counsel presented a bill draft that directs the Superintendent of Public Instruction to withhold from foundation aid payments to districts not having a general fund mill levy of at least 125 mills an amount equal to the difference between the amount actually raised by the district and the amount that would have been raised had the district's general fund mill levy been 125 mills.

At the request of Chairman Freborg, Mr. Decker presented testimony regarding the bill draft. He said this bill draft would affect 22 percent of all school districts in the state. He said this amounts to 16 districts, 11 of which are elementary districts. He said some districts are so wealthy they are not even being paid foundation aid. He said a minimum levy is an equity issue. He said if a minimum levy is instituted, it should be phrased in terms of a percentage so it does not get fixed in time.

At the request of Chairman Freborg, Mr. Jerry Coleman, Department of Public Instruction, presented testimony regarding the bill draft. He said most districts under the 125-mill minimum would probably choose to levy the dollars locally, rather than lose their foundation aid money. He distributed a document entitled *Minimum Levy Deduct*. The document is attached as Appendix G. He said under the bill draft \$242,508 would be deducted from foundation aid payments.

In response to a question from Senator Freborg, Mr. Decker said the problem is that we

cannot effectively impose a minimum effort on K-8 districts. He said the state provides foundation aid to districts with the assumption that there is a minimum local effort. He said some districts are not getting any foundation aid.

In response to a question from Representative Galvin, Mr. Decker said we have districts that do not levy any mills for school district purposes. He said there is no requirement that a district levy taxes for schools if it has funds available from other sources. He said if a district has a carryover in excess of 70 percent of its last year's budget plus \$20,000, the district is not eligible for foundation aid. He said there is one district that spent \$77,000 last year on general operations. He said the district has \$1.1 million in the bank.

Chairman Freborg said since there are no motions to amend this bill draft, it should be readied for final consideration at the next committee meeting.

At the request of Chairman Freborg, committee counsel summarized a bill draft requiring that all land be in a high school district.

Senator Kelsh distributed a letter from the superintendent of Litchville-Marion Elementary Schools. The letter is attached as Appendix H.

At the request of Chairman Freborg, Mr. Decker presented testimony regarding the bill draft. He distributed a document entitled *Historical and Current Enrollments - Kindergarten to Grade 12*. The document is attached as Appendix I. He said 21 percent of the school districts in this state enroll 2.6 percent of the students. He said nine out of the 50 elementary districts are involved in cooperatives. He said three of the 50 districts are actively engaged in discussions about becoming a K-12 district. He said if they did, they would have a K-12 district in excess of 800 students. He said those three are the only districts that have the potential student base to justify becoming a high school district.

In response to a question from Senator Freborg, Mr. Decker said the June 30, 2000, date could be changed. He said he knows of no reason why the districts that are currently cooperating could not and do not combine into a single district.

It was moved by Senator Kelsh and seconded by Representative Brandenburg that the bill draft be amended to exempt cooperating school districts.

Senator Kelsh said the cooperation must be for academic, not extracurricular, purposes. He said the sharing of one teacher would not be enough.

With the permission of Chairman Freborg, Mr. Decker said currently cooperatives need to share an administrator and some common grades. He said perhaps we would need to document that all of the students being served in multiple facilities could not be served in one facility.

In response to a question from Senator Freborg, Mr. Decker said we have districts that are benefiting from increased weighting payments provided by law for up to 10 years if they cooperate.

The motion failed on a roll call vote. Senator Kelsh and Representatives Brandenburg, Grumbo, Johnson, Kunkel, and Monson voted "aye." Senators Freborg and Redlin and Representatives Boehm, Delmore, Galvin, Gorder, Grande, and Hanson voted "nay."

It was moved by Representative Johnson, seconded by Representative Grumbo, and carried on a roll call vote that the bill draft be amended to provide that all districts be high school districts by June 30, 2002, rather than June 30, 2000. Senators Freborg, Kelsh, and Redlin and Representatives Boehm, Brandenburg, Delmore, Galvin, Gorder, Grande, Grumbo, Hanson, Johnson, Kunkel, and Monson voted "aye." No negative votes were cast.

Chairman Freborg adjourned the meeting at 12:00 noon.

L. Anita Thomas
Counsel

ATTACH:9