

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EDUCATION COMMITTEE

Wednesday, September 8, 2004
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, Dwight Cook, Robert S. Erbele, Tim Flakoll, Gary A. Lee, Constance Triplett; Representatives Merle Boucher, Lois Delmore, Pat Galvin, C. B. Haas, Lyle Hanson, Kathy Hawken, Gil Herbel, Bob Hunsakor, RaeAnn G. Kelsch, Lisa Meier, David Monson, Phillip Mueller, Mike Norland, Margaret Sitte, Clark Williams

Members absent: Representatives Thomas Brusegaard, Dennis Johnson, Jon O. Nelson

Others present: See Appendix A

It was moved by Representative Kelsch, seconded by Representative Delmore, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

WILLISTON PUBLIC SCHOOL DISTRICT NO. 1 V. STATE OF NORTH DAKOTA

At the request of Chairman Freborg, Mr. Doug Bahr, Director of Civil Litigation, Attorney General's office, presented testimony regarding the case of *Williston Public School District No. 1 v. State of North Dakota*. He said an education funding lawsuit was commenced in October 2003. He said the plaintiffs are the public school districts of Williston, Devils Lake, Grafton, Hatton, Larimore, Surrey, Thompson, United, and Valley City. He said the state filed a motion to dismiss the case for lack of standing. He said that motion was dismissed by the district court and the North Dakota Supreme Court declined to review the decision. He said the parties are preparing to take depositions. He said the trial is scheduled for three weeks beginning in October 2005.

Mr. Bahr said many of the issues are similar to that of the earlier lawsuit. In addition to the equity arguments, he said, the plaintiffs are also alleging that the education of students in this state is not constitutionally adequate.

In response to a question from Representative Williams, Mr. Bahr said one of the issues in the lawsuit deals with what is constitutionally needed to obtain an adequate level of education and what level of funding must accompany that.

In response to a question from Senator Flakoll, Mr. Bahr said he has not inquired as to how the lawsuit is being funded. He said he believes the cost

to the school districts will be upward of \$250,000 each.

Mr. Bahr said the Legislative Assembly was the entity that created the school districts and in so doing, it gave them both their authority and their funds.

In response to a question from Representative Sitte, Mr. Bahr said the plaintiffs are asking for test scores, lists of courses offered, etc. He said the plaintiffs can be expected to argue that there are insufficient courses, computers, laboratories, textbooks, etc. He said there are not a lot of specifics right now.

In response to a question from Representative Herbel, Mr. Bahr said the issue of tax burdens is a part of the equity discussion.

TEACHER COMPENSATION

Dr. Wayne Sanstead, Superintendent, Department of Public Instruction (DPI), said DPI provided teacher compensation data to the Legislative Council in May 2004. He said school districts will have received about \$87 million as reimbursement for teacher compensation since enactment of the 2001 legislation.

At the request of Chairman Freborg, Dr. David Massey, Assistant Superintendent, Educational Support and Community Learning, Department of Public Instruction, presented testimony regarding teacher compensation. He said he supervises the section of DPI that collects the teacher compensation data. He said in 2001 DPI was provided with funding for a full-time equivalent position. He said that individual was directed to develop the software for the data collection. He said data is collected and analyzed by Dr. David Larson, Department of Public Instruction. He said the reports were collected and shared with the Legislative Assembly. He said in 2003 the Legislative Assembly asked that DPI streamline the reporting fields and the reporting requirements. He said that has been done.

Dr. Massey said teacher compensation data is self-reported by the public school districts. He said DPI accepts the data in good faith. He said DPI then looks at the data, cleans it up, and analyzes it. He said the cleaning up of the data is a complex matter because there are many variables regarding the number of teachers, the hours they work, and the compensation they receive.

Dr. Massey said the 2001-02 and 2002-03 data are represented. He said the reports are based on 173-day school calendars and full-time teachers. He said the reports do not include part-time teachers. He distributed a document entitled *Executive Summary -- Observations of Full-time District Administrator and Teacher Compensation*. The document is attached as Appendix B.

Dr. Massey said the average teacher base salary increased by \$2,129 from the 2001-02 school year to the 2002-03 school year. He said the increase in the average teacher base salary in 138 school districts was less than the state average. He said 13 districts either had a decrease in their average teacher base salary or had no change at all. He said the average teacher base salary in 76 school districts was greater than the state average. He said the average teacher total compensation dollar increase was less than the state average in 108 school districts.

Dr. Massey distributed a document entitled *Teacher Average Base Salary Change by District*. The document is attached as Appendix C.

Dr. Massey distributed a document entitled *Teacher Average Total Compensation Change by District*. The document is attached as Appendix D.

Dr. Massey distributed a document entitled *Teacher Average % Change Total Compensation by District*. The document is attached as Appendix E.

In response to a question from Representative Delmore, Dr. Massey said DPI did not break down how much of the total compensation percentage was attributable to insurance increases.

In response to a question from Representative Delmore, Dr. Massey said it is expected that when veteran teachers retire, that will impact the average salary dollars in a district. He said that is what happened in some of the districts that are now below the state average.

In response to a question from Representative Delmore, Dr. Massey said he does not have information on which areas are experiencing increases in teacher numbers while experiencing decreases in student numbers.

In response to a question from Representative Sitte, Dr. Larson said a teacher's take-home pay would be the base salary plus any extended contracts, co-curricular payments, contract buyouts, compensation in lieu of salary, signing bonuses, and other compensation.

In response to a question from Representative Sitte, Dr. Massey said DPI did not look at how much money would be freed up as senior or veteran teachers retire.

In response to a question from Representative Boucher, Dr. Larson said there are some school districts that negotiated parts of the Teachers' Fund for Retirement contributions.

Representative Monson said if a teacher retires and that teacher is hired back, the district no longer pays contributions for that individual.

In response to a question from Representative Monson, Dr. Larson said the base salary is salary paid to an individual. He said it is not a paper salary.

Dr. Larson distributed a document entitled *2002-2003 Full-time School District Administrator's Total Compensation*. The document is attached as Appendix F.

Dr. Larson distributed a document entitled *2001-2002 Full-time School District Administrator's Total Compensation*. The document is attached as Appendix G.

Dr. Larson distributed a document entitled *\$20,000 Minimum Teacher Salary Impact 2002-2003*. The document is attached as Appendix H.

In response to a question from Senator Flakoll, Dr. Massey said the data deadline for this year's salary submission is September 10, 2004. He said the information will be available before the 2005 legislative session.

DATA COLLECTION

At the request of Chairman Freborg, Dr. Larson presented testimony regarding electronic data collection. He said the United States Department of Education is initiating a project called the Performance Based Data Management Initiative. He said the initiative will design a repository for all performance-based program data. He said the project is called the Educational Data Exchange Network. He said DPI will transmit all program performance data to the United States Department of Education. He said the pilot phase is finished and in November 2004 the next phase of data transmission testing will be initiated.

Dr. Larson said DPI has been going through all of its reporting and data collection requests. He said DPI has narrowed its requests by identifying redundancies. He said a number of the reports have been moved from paper collections to DPI's online reporting system.

Dr. Larson said according to an Information Technology Department printout, in March 2004 DPI had 475 internal and external reports. He said that has been reduced to 348. He said that is a reduction of 127. He said the direct impact has been that about 70 annual reports either no longer exist or have been merged into other reporting mechanisms. He said not one district has expressed any negative impact. He said this process will continue for the next one to two years. He said the goal is to have an agency data collection process that is both electronic and effective.

TEACHER COMPENSATION

Representative Delmore said what the committee was given is an average of an average. She said there is a big discrepancy between what is actually a district's base salary and what is being shown in DPI handouts.

In response to a question from Representative Delmore, Dr. Larson said DPI was directed to report base salaries that were paid. He said that is what DPI

has provided. He said DPI reports what was actually paid to teachers, not what is just on paper.

Representative Delmore said she is surprised that Dr. Larson does not have the base salary for a beginning teacher in Grand Forks, Fargo, Bismarck, Wolford, or Tioga. She said what DPI has presented are averages, not base salaries.

In response to a question from Representative Delmore, Dr. Larson said the Legislative Council was provided with line-by-line salaries for all 7,800 teachers. He said from that the lowest and the highest paid teachers were included in the summary.

Committee counsel said copies of the document were provided to each member of the committee. She said it is the document entitled *2002 Full-time Teachers -- 2003 Teachers*. The document is on file in the Legislative Council office.

Dr. Larson said DPI does not collect what a district says its base salary is on paper. He said DPI collects only what a teacher was paid as a base salary.

Representative Haas said the base salary needs to be thought of as that average salary that comes off the salary schedule. He said other fringe benefits must be added to arrive at an individual's total compensation.

SCHOOL DISTRICT REORGANIZATIONS

Mr. Tom Decker, Director of School Finance and Organization, Department of Public Instruction, distributed a copy of an article entitled *Adequacy Lawsuits*. The document is attached as Appendix I.

Mr. Decker distributed a copy of an article entitled *North Dakota Education: Dealing with Down Numbers*. The document is attached as Appendix J. He said he expects that student numbers will be down by 1,700 to 1,900.

Mr. Decker said in December 2003 a reorganization bonus was paid to the new Lewis and Clark District. He said the Pembina-Walhalla-Neche reorganization may or may not be eligible for a reorganization payment. He said the enrollment numbers for that reorganization are such that by fall 2005 they may actually fall below the 520 students needed for a bonus payment. He said that reorganization will be effective July 1, 2005. He said the Carrington-Sykeston reorganization appears to be eligible for a reorganization bonus, provided the reorganization vote will be successful. He said Fordville-Lankin and Stanton-Center are two more reorganizations that will not qualify for bonuses. He said the Hatton and Northwood School Districts and the New Rockford and Sheyenne School Districts are beginning discussions. He said the number of districts that are contemplating reorganizations is fairly limited.

SUPPLEMENTAL EQUITY PAYMENTS AND IMPACT AID

Mr. Decker said supplemental equity payments were designed to level the playing field to some extent for those districts that are the worst off financially. He

said the 1989 education funding lawsuit dealt with the issue of equity. He said the supplemental equity formula was changed by the 2003 Legislative Assembly in a way that DPI believed would move the state closer to addressing some of the equity issues. He said almost half of the dollars expended for education are outside any equalization mechanism. He said equalization is by means of the 32-mill deduct. He said the money raised from local dollars and other revenue sources are not equalized. He said in 2003 DPI suggested that all federal unrestricted revenues be included in the supplemental equity payments formula. He said that legislative change affected the districts that were eligible to receive supplemental equity payments. He said DPI thought that federal impact aid could be included. He said upon review by the Attorney General's office, it appears that the 2003 amendment was not in agreement with federal law and should be removed from the supplemental equity aid calculation. He said DPI needs to have a legislative change so that the payments are not violative of either state or federal law.

At the request of Chairman Freborg, Mr. Jerry Coleman, Department of Public Instruction, presented testimony regarding supplemental revenue payments. His testimony is attached as Appendix K. He said DPI thought school districts should be notified early of what might be happening so that they could include any financial impact in their budget preparations.

In response to a question from Representative Mueller, Mr. Decker said the Legislative Assembly could hold harmless the school districts that were overpaid for this biennium because they had an expectation of payment based on the 2003 legislation. He said DPI could also just continue to pay under the current law and risk a lawsuit or it could recalculate the payments to reflect the earlier law.

In response to a question from Representative Mueller, Mr. Decker said impact aid is essentially money to a school district that is impacted by federal activity within the district. He said only school districts are eligible for that payment. He said the Grand Forks School District receives \$6 million and the Minot School District receives \$5.5 million. He said this is a funding stream that is outside the formula.

In response to a question from Senator Cook, Mr. Decker said there would be an opportunity for legal challenge even if the school districts were held harmless.

In response to a question from Senator Cook, Mr. Decker said he expects that if DPI follows the law, there will be some discussions in federal court.

In response to a question from Representative Delmore, Mr. Decker said any law could be challenged.

Mr. Decker said before federal impact aid can be used in calculating the distribution of state education dollars, federal law requires that the state's overall formula come within the federal range ratio.

Representative Williams said everyone shares the burden of that amendment. He said unfortunately nothing can be done about it until the 2005 legislative session.

Representative Hawken said a bill should be introduced to fix the 2003 amendment. She said no one purposely did anything wrong.

Representative Mueller said if some school districts are going to be shorted, the Legislative Assembly should hold them harmless.

In response to a question from Senator Freborg, Mr. Decker said if this committee does not recommend a bill to amend the supplemental equity aid formula, DPI will request a bill be introduced.

JOINT POWERS AGREEMENTS

Mr. Decker distributed a copy of the joint powers agreements organizational directory. The directory is attached as Appendix L. He said that information is also on DPI's web site.

Mr. Decker distributed a copy of a September 5, 2004, *Bismarck Tribune* article entitled "Schools say joint powers agreements improve education." The article is on file in the Legislative Council office. He said four of the five joint powers agreements in existence qualify for the payments provided by the 2003 Legislative Assembly. He said the first educational joint powers agreement was formed in 2001.

In response to a question from Senator Flakoll, Mr. Decker said the DPI web site has a map of which districts participate in joint powers agreements.

In response to a question from Senator Freborg, Mr. Decker said joint powers agreements tend to be comprehensive service agencies. He said they are formed under a different law than are school district cooperatives. He said school districts have had the authority to join with other districts for a period of time. He said cooperatives tend not to offer the range of services that are common with joint powers agreements. He said about 40 percent of the state's school districts are in joint powers agreements.

At the request of Chairman Freborg, Mr. Jon Martinson, Executive Director, North Dakota School Boards Association, presented testimony regarding joint powers agreements. He said the agreements offer students opportunities that they would not have had but for their school districts cooperating with each other. Mr. Martinson showed a video regarding joint powers agreements.

In response to a question from Senator Cook, Mr. Martinson said joint powers agreements do not provide greater funding equity but they do provide an increase in educational equity.

Representative Sitte said she was concerned about elected school boards losing their power over their own revenues and expenditures.

In response to a question from Representative Sitte, Mr. Martinson said he does not believe that joint powers agreements are causing elected officials to give up their power. He said the governing boards of joint powers agreements are made up of elected

school board members. He said there are opportunities for joint powers agreements to change the ways in which things are done.

In response to a question from Representative Delmore, Mr. Martinson said discussions about having a teacher in each classroom have gone on long before joint powers agreements. He said interactive television may not be an optimal delivery method for education. However, he said, that does not mean that interactive television is not an option that should be considered as alternate ways of providing educational opportunities are pursued.

In response to a question from Representative Delmore, Mr. Martinson said to date school district superintendents and administrators have been taking on the duties of administering the joint powers agreements in addition to their other duties. He said in the future it will take funding to hire administrators to manage or administer the joint powers agreements. He said the opportunities that are available under joint powers agreements are limited only by the imagination of those involved in the joint powers agreement.

Representative Herbel said joint powers agreements will not address the inequity of broadly different tax bases among the member districts. He said he was concerned that down the road joint powers agreements will result in bureaucracies that are not wanted.

Mr. Martinson said the concern raised by Representative Herbel is legitimate and it is down the road. He said it is however helpful to note the concerns of legislators as the joint powers agreements move forward.

In response to a question from Representative Hawken, Mr. Martinson said the Roughrider education services program, which is centered around Dickinson, has developed and adopted a strategic plan. He said the participating school districts have a goal of retaining staff in the southwest area of the state.

Representative Hawken said if the school districts are going to participate in joint powers agreements, they should fund their own participation. She said if every district has to do a task currently, she does not see why the state should provide additional dollars so that they can do that which they already have to do.

In response to a question from Senator Lee, Mr. Martinson said he is not familiar with the details of any joint powers agreement efficiencies that may have been noted to date.

SPECIAL EDUCATION RESIDENCY ISSUES

At the request of Chairman Freborg, committee counsel presented a bill draft [50087.0300] relating to residency determinations applicable to students placed for purposes other than education.

At the request of Chairman Freborg, Mr. Mike Ahmann, Director of Special Education, Bismarck Public School District, presented testimony regarding

the bill draft. His testimony is attached as Appendix M.

In response to a question from Representative Boucher, Mr. Ahmann said school districts have problems determining the residency of students who are voluntarily placed in institutions or facilities. He said one such situation involves students at the Anne Carlsen Center for Children who are voluntarily placed by families but not necessarily by an agency. He said often such placing families become transitory. He said it is often very difficult for school districts to track down transitory parents. Therefore, he said, the compromise position was one of picking a date on which the student's district of residence would be determined and that district would serve as the student's school district of residence for the school year.

In response to a question from Representative Williams, Mr. Ahmann said the working group openly discussed the concerns that the participating members had. He said the agency participants felt that they could agree to the provisions in the proposed bill draft for the majority of situations they encounter. He said this bill draft is a big step forward.

In response to a question from Representative Boucher, Mr. Ahmann said there are several other sections in the North Dakota Century Code that address parental rights. He said the statutory sections are very complex.

In response to a question from Senator Cook, Mr. Ahmann said there are statutes that address children who move for educational purposes. He said this bill draft addresses students who are placed for purposes other than education.

In response to a question from Representative Mueller, Mr. Ahmann said Section 2 of the bill draft addresses out-of-state agencies that have avoided participating in the out-of-state compact process. He said this bill draft would require those agencies to participate in the compact. He said in the last year, the Bismarck School District had one case from South Dakota and three cases from Montana in which there were attempts to place students in Bismarck foster homes without going through the interstate compact.

TAXATION ISSUES FOR FARGO AND WEST FARGO

At the request of Chairman Freborg, Mr. Bruce Furness, Mayor, Fargo, presented testimony regarding taxation issues impacting the Fargo and West Fargo School Districts. His testimony is attached as Appendix N.

Mr. Furness said in 1973 the Legislative Assembly enacted House Bill No. 1180. He said that bill froze the boundaries of a school district as the city continued to expand. He said it passed 84-15 in the House and it passed unanimously in the Senate. He said although the bill was appropriate in 1973, that bill

could soon have some implications for other school districts and communities.

Mr. Furness said today there is land that is in the city of Fargo but in the West Fargo School District. He said that area today accounts for about 46 percent of the West Fargo School District's budget. He said both school districts are in the city of Fargo. He said Fargo has made significant investments in infrastructure and economic development. He said Fargo tries hard to get companies to come.

Mr. Furness said the West Fargo School District's valuation has gone up by 1,043 percent; whereas, the Fargo School District's valuation has gone up by 343 percent since 1973. He said most of Fargo's future growth will be in the West Fargo School District. He said the West Fargo School District's valuation rate has grown more than twice that of Fargo. He said the Fargo School District is not sharing proportionately in the commercial tax base generated by the city of Fargo.

Mr. Furness said the Fargo School District's reliance on the residential tax base will ultimately result in closing neighborhood schools. He said there is anecdotal evidence showing that the Fargo School District is perceived to be an inner city school; whereas, the West Fargo School District is perceived to be a suburban school. He said both school districts rely on property taxes to the extent of 60 percent. He said the West Fargo School District receives the benefit of the commercial district but with very few students coming out of that situation.

Mr. Furness said in 2003-04 there were 5,400 students in the West Fargo School District and 11,000 students in the Fargo School District. He said today the valuations per student are very equal. However, he said, he is concerned that the valuation per student in the West Fargo School District will continue to climb and that the valuation in the Fargo School District will climb much less. He said in coming years this will become more disparate. He said he thinks that within about one year, the West Fargo School District's valuation per student will surpass that of the Fargo School District.

Mr. Furness said the Fargo School District is being affected by the inequality of valuation between school districts. He said today there is considerable cooperation between the two school districts. He said cities in Minnesota have multiple school districts, however, the difference in this state is the large reliance placed on property taxes. He said North Dakota is in the 60 percent range; whereas, the Minnesota cities are in the 30 percent range. He said this is not a local problem because the state in 1973 imposed this solution on the two cities. He said the time has come for the state to again look at this issue. He said some even suggest that there should be only one school district.

Mr. Furness said he is not interested in going to a pre-1973 status. He said that would not be an equitable solution. He said this is the time to further study the option. He said both school districts are important

to the city of Fargo. He said he is looking for a win-win situation. He said he believes that the issue should be studied.

DATA ENVELOPMENT ANALYSIS

Mr. Decker said DPI is working under a \$50,000 appropriation directing it to come up with an alternative transportation funding system. He said school districts are given multiple opportunities to become as efficient as possible.

Dr. Kendall E. Nygaard, Chairman, Department of Computer Science, North Dakota State University, and Mr. Doug Schesvold, Research Associate, Department of Computer Science, North Dakota State University, presented testimony regarding data envelopment analysis.

Dr. Nygaard said the goal of data envelopment analysis is to develop the quantitative foundation for a school transportation funding formula that rewards efficiency and recognizes differences in site characteristics among school districts. He said the proposed transportation plans operated by districts must meet minimum quality standards, including maximum standard ride time, average standard ride time, and updated equipment requirements.

Dr. Nygaard said the first step in the analysis involves running the data envelopment model with all districts in a single group to determine an initial efficiency score for each district. He said the second step requires the performance of regression analysis to determine the effect on efficiency of each site characteristic that is outside of management control. He said the third step requires formulation of a similarity metric that is designed to incorporate all of the site characteristics, based on their relative importance. He said student density is a major factor in the analysis. He said the fourth step requires a determination of the unique peer group for each district by including all other districts within a cutoff threshold of similarity. He said the fifth step involves making a downward adjustment in the output of a peer if any member of a district's peer group has a greater expected efficiency score due to more favorable site characteristics. He said the sixth step involves running the data envelopment analysis using adjusted outputs for each district and its peer group to determine the final efficiency score. He said each district will have a customized peer group consisting of the most similar districts in the state.

Senator Cook said he is concerned that the entire data envelopment analysis formula starts by determining the initial efficiency score. He said the difficulty is that the larger the number of riders that schools report, the greater their efficiency. He said he does not see how anyone can be confident in the accuracy of the total student ride numbers.

Representative Williams said he is concerned about whether the figure being used is eligible riders or actual riders. He said in a lot of school districts buses go out and return virtually empty.

Dr. Nygaard said he assumes that the student numbers he is given represent the actual student rides. He said school districts have access on the web site to the numbers from other school districts and therefore the districts themselves help to keep each other honest.

In response to a question from Representative Haas, Dr. Nygaard said there would be about a three-year plan to phase this in and an accompanying three-year data collection phase. He said the data envelopment and regression analysis will be used to determine the efficiency of each school district. He said he will then calculate the cost of each student ride for each district and then calculate the unadjusted district allotment.

Dr. Nygaard said in year 1 of the three-year phase in, a baseline plus two-thirds of the funding needed could be provided to close the efficiency shortfall. He said in year 2, the data envelopment analysis could be performed to calculate new efficiency scores. He said a baseline plus one-half of the funding needed could be provided to close the efficiency shortfall.

In response to a question from Representative Williams, Dr. Nygaard said the analysis shows that there are some very inefficient transportation systems out there.

Dr. Nygaard said the routing data is for 2003-04. He said the finance data for the 2003-04 school year is not complete so he is using the 2002-03 data. He said the 2003-04 data should be available around November 2004.

In response to a question from Senator Freborg, Dr. Nygaard said if given a total transportation funding amount, he could develop a table to show what each district would receive.

Mr. Decker said there will be some real differences in what districts would get as opposed to what they now receive. He said that is why DPI is looking at a three-year phase in period.

Mr. Decker said the state has been paying out state transportation dollars based on school districts' reported student numbers for many years.

In response to a question from Representative Monson, Mr. Decker said the law allows either the school district of residence or the admitting district to provide transportation to and count open-enrolled students.

Mr. Decker said he intends to put together what districts are receiving now in transportation payments and what those districts would receive in three years under data envelopment analysis. He said it would be expected that the districts would become more efficient within the coming three years. He said the Legislative Assembly should segregate \$500,000 to \$1,000,000 from the transportation appropriation and use that amount to provide an incentive for districts to try and become more efficient and then share their findings with other districts.

In response to a question from Senator Cook, Mr. Decker said DPI does watch to ensure that

districts are not reporting more rides than they have students.

Dr. Nygaard said this system, like the old system, is based on district-reported data.

COMMENTS BY OTHERS

With the permission of Chairman Freborg, Ms. Bev Nielsen, North Dakota School Boards Association, said she is concerned about issues governing actual student riders versus eligible student riders.

Dr. Nygaard said there are systems that allow students to register whether or not they are going to ride that day. He said some school districts are equipping their schoolbuses with GPS systems.

With the permission of Chairman Freborg, Dr. Paul Johnson, Superintendent, Bismarck Public Schools, said the Bismarck Public School District will not benefit from an amendment of the supplemental aid formula. He said the Bismarck Public School District would lose \$329,000. He said he would appreciate it if the Legislative Assembly would remedy that situation and ensure that the districts get the money. He said the Bismarck Public School District does have plans for the money.

With the permission of Chairman Freborg, Mr. Doug Johnson, Assistant Executive Director, Council of Educational Leaders, said he is concerned with the method for ridership determination. He said the data will also need to be made available to the school district superintendents so that they can examine the data for accuracy. He said the jury is still out on what it will take school districts to become efficient.

COMMITTEE DISCUSSION

Representative Delmore said this committee should request a bill draft to rectify the supplemental aid formula. She said this is problematic for districts that fall on either side of the issue.

Representative Hawken said she does not see how legislators can opt not to do anything. She said the Attorney General has determined that the state is in violation of a federal law. She said that fact was not known at the time the amendment was made.

It was moved by Representative Williams that the Legislative Council staff be requested to work with the Department of Public Instruction and draft alternatives to address the supplemental payment formula issues.

Senator Cook said he would prefer that DPI introduce a bill to address the supplemental payment formula issue.

Representative Delmore said she would like to see DPI's bills come before the interim Education Committee.

Representative Boucher seconded the motion.

Representative Williams said he just wants the bills to come through the interim Education Committee.

The motion carried on a roll call vote. Senators Freborg, Cook, Erbele, Flakoll, Lee, and Triplett and Representatives Boucher, Delmore, Galvin, Haas, Hawken, Herbel, Hunskor, Meier, Monson, Mueller, Norland, Sitte, and Williams voted "aye." No negative votes were cast.

It was moved by Representative Hawken, seconded by Representative Mueller, and carried on a roll call vote that the bill draft relating to student residency issues be approved and recommended to the Legislative Council. Senators Freborg, Cook, Erbele, Flakoll, Lee, and Triplett and Representatives Boucher, Delmore, Galvin, Haas, Hanson, Hawken, Herbel, Hunskor, Kelsch, Meier, Monson, Mueller, Norland, Sitte, and Williams voted "aye." No negative votes were cast.

Senator Cook said he would like this committee to receive information on how much each school plaintiff school district participating in the case of *Williston Public School District No. 1 v. State of North Dakota* is expending on that case. He said he also wants to know if any of the plaintiffs have contingency fee arrangements with their attorneys.

It was moved by Representative Sitte, seconded by Representative Haas, and carried on a voice vote that the Legislative Council staff be requested to work with the Department of Public Instruction to prepare a bill draft authorizing the payment of school district transportation by means of formula based on data envelopment analysis.

No further business appearing, Chairman Freborg adjourned the meeting at 4:30 p.m.

L. Anita Thomas
Committee Counsel

ATTACH:14