NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

EDUCATION FUNDING FORMULA REVIEW COMMITTEE

Tuesday, October 1, 2019
Roughrider 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, Joan Heckaman, Nicole Poolman, David S. Rust; Representatives David Monson, Marvin E. Nelson, Mark S. Owens, Mark Sanford

Members absent: None

Others present: Senator Erin Oban, Bismarck, member of the Legislative Management
Dustin Assel, Legislative Council, Bismarck
See Appendix A for additional persons present.

It was moved by Senator Rust, seconded by Senator Poolman, and carried on a voice vote that the minutes of the July 30, 2019, meeting be approved as distributed.

ELEMENTARY AND SECONDARY EDUCATION STATE AID AND FUNDING FORMULA STUDY

Chairman Schaible invited the following three school district superintendents and three school district business managers to join the committee at the table:

- Dr. Mike Bitz, Superintendent, Mandan Public School District;
- Dr. Steve Holen, Superintendent, McKenzie County School District #1;
- Mr. Brandt Dick, Superintendent, Underwood School District 8;
- Mr. Mark Lemer, Business Manager, West Fargo Public Schools;
- Mr. Darin Scherr, Business and Operations Manager, Bismarck Public Schools; and
- Mr. Scott Berge, Business Manager, Grand Forks Public Schools.

At the request of Chairman Schaible, Mr. Adam J. Tescher, Director, School Finance and Organization, Department of Public Instruction, provided information (Appendix B) regarding funding provided through the state school aid formula by school district, including the percent each source--property tax, local revenue, and state funding--represents in the total formula calculation. Mr. Tescher said during the 2018-19 school year property tax provided 20 percent and in lieu of revenue provided 5 percent of state school aid formula funding. He said the state provided the remaining 75 percent of state school aid formula payments.

Senator Rust said funding sources vary significantly by district. He said the statewide percentage of 75 percent is not accurate in his district which receives a significant amount of local revenue. He said one school in his district receives only 24 percent of state school aid formula support from the state.

In response to a question from Senator Rust, Mr. Tescher said the role of the formula is to guarantee a per-student formula amount, through an integrated payment, which is a combination of state and local funding.

Mr. Tescher said data published by the Department of Public Instruction (DPI) includes federal funding and other sources not considered in the formula, including a miscellaneous levy and other state grants. He said when these additional sources of revenue are considered, the state's contribution to K-12 funding is approximately 60 percent.

In response to a question from Chairman Schaible, Mr. Tescher said in the past, state funding accounted for almost 80 percent of the state school aid formula. He said while higher property values increased local revenue during the 2017-19 biennium, there were no increases to the per-student payment rate. He said this resulted in a decrease in the state's share of formula funding to approximately 75 percent. He said increases in the per-student payment rate, approved in 2019, could increase the state's share of the formula.

At the request of Chairman Schaible, Mr. Tescher reviewed a report (Appendix C) regarding the effects of adopting a three-tiered funding system in the state school aid formula. Mr. Tescher said the South Dakota sparsity formula provides additional funding for smaller school districts. He said criteria for payment includes enrollment, enrollment per square mile, land area, and distance to the nearest high school. He said to qualify for a sparsity formula payment, school districts must levy the maximum property tax for school funding. He said districts qualifying for sparsity formula funding receive 75 percent of the general state aid per student up to a maximum payment of $110,000. He said the sparsity formula separates school districts into three categories--enrollment under 83 students, enrollment from 83 to 232 students, and enrollment over 232 students but less than 500 students. He said the formula seemed to generate more funding for school districts with enrollment ranging from 83 students to 232 students.

Mr. Tescher presented an analysis of the South Dakota sparsity school funding calculation applied to North Dakota schools. He said the analysis did not verify districts were levying the maximum property tax or the distance to the nearest high school. He said the analysis includes information regarding the number of students open enrolled or tuitioned in and out of each school district. He said page I-1 of the report identifies districts that would qualify for additional sparsity funding. Beginning on page I-2, he said, the report provides lists of North Dakota districts that would qualify for some, but not all of the South Dakota criteria. He said some school districts that would not receive funding under the South Dakota calculation, may receive funding if North Dakota adopted a similar formula, but adjusted the criteria slightly. He said, in South Dakota, the sparsity payment is a one-time payment made in November. He said applying the sparsity calculation to North Dakota districts receiving transition minimum payments would require some adjustments.

Chairman Schaible said the committee may need to address the enrollment level that is too small for a school district to be viable and to what degree is the state responsible for nonviable districts. He said the formula has discouraged consolidation and cooperation. He suggested districts could decide locally whether to continue, but under certain circumstances, the state's responsibility should be limited.

In response to a question from Senator Heckaman, Mr. Tescher said minimum and maximum adjustments were not factored into the sparse school funding presentation.

In response to a question from Mr. Lemer, Chairman Schaible said the formula could consider a rolling average or ranges to prevent districts from moving in and out of eligibility for the sparsity payment annually as enrollments fluctuate.

Mr. Daniel Ludvigson, Superintendent/Elementary Principal, Elgin/New Leipzig Public School, said funding for schools in sparsely populated areas is important. He said if his district dissolved, students in the middle of the district may be an hour from the nearest school. He said travel could be even longer if the students are bussed.

Mr. Lemer suggested the committee review formula minimum adjustments by school district, including the time needed for districts receiving the minimum adjustment to move to the formula if the per-student rate is consistently increased. He suggested the committee review school size weighting factors that would bring schools receiving the minimum adjustment on to the formula at the current per-student rate.

In response to a question from Chairman Schaible, Mr. Lemer said a review of school size weighting factors could be used as an analytical tool. He said the committee may discover patterns that could help inform decisions. He said changes to the school size weighting factor may eliminate the minimum adjustment for some districts.

Chairman Schaible asked DPI to provide the analyses suggested by Mr. Lemer for presentation at a future meeting.

Senator Rust said there is a wide range of schools that receive transition minimum payments for a variety of reasons.

Chairman Schaible suggested the committee also review the reasons school districts are receiving transition minimum payments.

Senator Oban suggested reviewing the list of schools not qualifying for the sparsity payment by location to identify similarities.

In response to a question from Senator Rust, Chairman Schaible said in 2019, the Legislative Assembly approved a plan to bring all school districts on to the formula over the next 7 years. He said the changes will be difficult for schools and the committee should review ways the formula may need to be adjusted to assist viable and essential school districts currently receiving transition minimum payments.

Representative Nelson said sparsity funding would help isolated school districts; however, school districts with fewer students per square mile also may have a larger tax base. He said it is important to help those isolated school districts that, if dissolved, would require students to travel long distances to school.

Mr. Lemer suggested the committee review the federal equity test. He said except for the offset of federal tuition paid by the Air Force bases, the state school aid formula does not adjust directly for federal funding. He said if the federal equity test is met, federal funding may be considered part of the formula. He said the federal equity test allows adjustments and the school size weighting factors in the formula may allow the state to meet the test.

In response to a question from Chairman Schaible, Mr. Lemer said unless the federal equity test is met, federal funds may not be imputed or otherwise supplanted in the formula. He said the federal equity test applies to Native American and non-Native American schools alike.

Chairman Schaible asked DPI to determine whether the state school aid formula meets the federal equity test, and provide the results to the committee at a future meeting.

In response to a question from Representative Monson, Mr. Lemer said many of the transition maximum adjustment districts are Native American schools and are impacted by federal funding. He said just as the committee is phasing out transition minimum adjustments, transition maximums also should be addressed.

Representative Monson said South Dakota does not allow K-6 and K-8 school districts. He suggested the committee review the impact of prohibiting K-6 and K-8 school districts in North Dakota.

Chairman Schaible said the committee should review the impact of funding adjustments for K-6 and K-8 school district models.

Dr. Bitz said tuition payments made by K-6 and K-8 school districts are substantially less than what it would cost districts to add high schools. He said when the K-12 funding formula was changed in 2013, the new integrated payment rates provided a significant increase in funding for elementary districts, while the tuition the elementary districts continue to pay to receiving high school districts is much lower. He said the formula favors sending school districts, but provides no incentives for receiving school districts which typically must offset 75 percent of the tuition received in the state school aid formula.

Senator Poolman suggested the committee receive information regarding the location of K-6 and K-8 school districts and their proximity to high school districts.

Mr. Levi Bachmeier, K-12 Education Policy Advisor, Governor's office, suggested the committee not only review the school size weighting factor adjustments that would be necessary to eliminate all transition minimum payments, but also review the impact of redistributing the funding provided to school districts receiving transition minimum payments.

At the request of Chairman Schaible, Ms. Linda Leadbetter, State Supervisor of Assessments, Director, State Property Division, Tax Department, provided information (Appendix D) regarding the general fund levy and value of one-mill levy in each school district in 2018 and the total 2018 taxable valuation, including taxable valuation per student. She said the value of one mill is equal to the taxable valuation of the school district multiplied by .001 and varies from just over $3 at the Grand Forks Air Force Base to $481,058 in Bismarck. She said the statewide average value of a mill levy is $26,700 and the median value is $11,500.

Chairman Schaible suggested the committee review the fluctuations in property values and property taxes over the last 10 years. He suggested the committee compare valuation increases by region and review the impact of the 12 percent limitation on annual increases.

In response to a question from Chairman Schaible, Ms. Leadbetter said annual increases are limited to 12 percent of prior tax or the amount of new growth, whichever is greater, but not both. Although new property qualifying as tax exempt is included in the new growth of the county in the year it is put into service, she said, other taxable properties are paying the amounts related to the tax exempt property until it is taxed.

At the request of Chairman Schaible, Ms. Leadbetter reviewed the maximum levy worksheet for taxable year 2019 (Appendix E) for school districts' general fund, including example worksheets and worksheet instructions. Ms. Leadbetter said calculation 1 on the worksheet determines if the prior year assessment plus 12 percent, or 70 mills applied to the current taxable valuation, yields the higher maximum mill levy. She said an adjustment certified by DPI has been added to the 2019 worksheet to account for the phase in of the 60-mill deduction from the state school aid formula. She said this adjustment is necessary for districts unable to levy 60 mills because of the 12 percent limitation on annual increases in both taxation and the state school aid formula deduction. She said the worksheet is based on taxable value, not true and full value.

In response to a question from Dr. Holen, Ms. Leadbetter said there was discussion prior to the 2019 session regarding whether new property should be added to the 12 percent increase when determining the property tax increase limitation. She said even with large commercial properties added to the tax base, the 12 percent increase calculation, applied to the total taxable value of the district provided for the larger allowable increase. As a result, she said, calculation 1 on the maximum levy worksheet is most commonly applied and calculation 2 is rarely used, even in the western part of the state where there has been rapid growth.

In response to a question from Representative Owens, Ms. Leadbetter said because farm residence exemptions are not required to be included on property tax lists, the value of the farm homestead tax exemption is unknown. She said some counties have begun gathering data on farm residences because ownership changes could change the property's homestead tax exemption status.

Mr. Lemer said when the formula was adopted, there was a presumption that school districts would get a set payment on a per-student basis. He said a local contribution of 60 mills was used to make up a portion of the funding. He said if the state funded 100 percent of the formula, it would not change the funding provided to school districts. He said the committee could review the funding sources that should be included in the formula payment and the role of property tax in the formula.

In response to a question from Chairman Schaible, Mr. Lemer said implementation of the formula was a major adjustment and the current formula, with its limits on levies, reduced local control. He said an increase in the state's funding of the formula would not affect local control.

Representative Nelson said the 60-mill local contribution is the fairest part of the formula. He said inequity exists in the formula's transition minimum adjustment and in school districts' ability to fund construction. He said because school districts bear the full cost of construction, it is more difficult for property poor districts than property rich districts to build new buildings.

Dr. Holen said new property added to a district should reduce the property tax burden for existing taxpayers; however, districts are required to levy 60 mills. He said local in lieu of revenue contributions are not considered when determining the 60-mill requirement. He said for some school districts the 60-mill requirement and local in lieu of revenue deductions increase the percentage of local contribution in the state school aid formula.

Dr. Bitz said if a school district is not on the formula because it does not levy 60 mills, state funding is provided to meet the total funding determined by the formula. He said if all districts were on the formula and levying 60 mills, savings would be available to increase the per-student payment, benefiting all school districts.

Dr. Holen said the formula does not consider in lieu of property tax revenue, which also benefits the taxing district, when determining whether a district is collecting 60 mills. He suggested quantifying the 60-mill contribution and considering in lieu of property tax revenue when determining the 60-mill contribution in the formula. He said the local mill levy contribution also could be reduced for all school districts. He suggested the committee compare savings to the state of offsetting in lieu of revenue in the formula to the additional state funding required to meet the formula payment in districts unable to levy 60 mills.

Senator Rust said because the mill levy deduction in the formula may increase up to 12 percent, school districts are compelled to levy the maximum increase to match the formula deduction. He said excess ending fund balance deductions also limit flexibility.

In response to a question from Mr. Dick, Chairman Schaible said he has discussed the property tax implications of the state school aid funding formula with the tax committee chairmen and they agreed their purpose is taxpayer equity. He said this committee should develop a plan with regard to the role of property tax in the state school aid formula and forward the plan to the tax committees for consideration.

Mr. Lemer said with the exception of a one-mill levy for the University of North Dakota School of Medicine and Health Sciences, statewide property tax is not allowed. However, he said, the 60 mills deducted in the state school aid formula functions similar to a statewide property tax. He said the formula was designed to include a uniform levy for all school districts. Because school districts are unable to get to 60 mills, he said, the committee may consider a lower mill levy deduction. He said if the mill levy deduction in the state school aid formula were lowered and the same mill rate implemented statewide, the 12 percent limit on property tax increases would have to be repealed.

Chairman Schaible said the committee also would need to consider the impact of declining property values on the formula. He expressed concern regarding the additional state funding necessary to maintain the funding formula if property values decrease.

Representative Sanford said in addition to the 60 mills, school districts are allowed to levy an additional 10 mills for the general fund and 12 mills for the miscellaneous fund for discretionary purposes. He said these additional mills and in lieu of revenues generate varying amounts of funding for districts across the state and may pose equity concerns.

Mr. Lemer said because mill levies raise more funding in property rich districts, those districts may be able to raise funding for school construction at a lower mill rate than property poor districts.

Mr. Ludvigson said the range of revenue generated by one-mill levy in school districts across the state poses funding challenges.

ELEMENTARY AND SECONDARY EDUCATION TRANSPORTATION STUDY

At the request of Chairman Schaible, Mr. Tescher provided information (Appendix F) regarding a review of department guidelines for student transportation costs provided to school districts and a comparison of state transportation aid to the actual cost of transportation by school district. Mr. Tescher said DPI no longer maintains information regarding a prior data envelopment analysis project.

Mr. Tescher reviewed the various types of routes for which school districts receive reimbursement. He said routes include rural, in-city, family to school, family to bus, special education, vocational education, extended year, public transit, and other, including between schools. He said school districts are asked to report miles for activities, but are not reimbursed for those miles. He said for each route, DPI collects information in the state automated reporting system (STARS) regarding primary vehicle used, miles per run, maximum ride time, total rides, and total runs. He reviewed guidelines from DPI's accounting manual regarding student transportation services related costs and the distribution of transportation grants as provided in Section 10 of Senate Bill No. 2013 (2019).

Mr. Tescher reviewed a summary of 2017-18 school year transportation expenditures and 2018-19 school year reimbursements by school district. He said 2018-19 school year reimbursements are based on 2017-18 school year route and ride information. He said DPI is compiling 2018-19 school year expenditures. He said the 90 percent maximum reimbursement for each school district includes indirect costs and an 8-year rolling average of the cost of equipment. He said the reimbursement calculations do not include adjustments, such as deductions for excess ending fund balances. As a result, he said, the cumulative total reimbursement shown on the summary is more than the cumulative total of reimbursements actually distributed to school districts.

In response to a question from Chairman Schaible, Mr. Tescher said DPI requires school districts to complete two transportation reports in STARS, a vehicle inventory report, and a routes report. He said the routes report summarizes route and ride information for each vehicle on the vehicle inventory report. He said if reimbursement for mileage related to the transportation of open enrollment students were discontinued, DPI would expand the information reported in STARS.

In response to a question from Dr. Holen, Mr. Tescher said reimbursement, as a percent of total expenditures, may vary by school district due to bus size, busing contracts, length of busing routes, and ridership.

In response to a question from Representative Monson, Mr. Tescher said K-6 and K-8 schools are reimbursed for transportation to high schools outside the district.

In response to a question from Representative Monson, Dr. Bitz said as long as the bus does not travel out of its way, the school district may transport students to a private school.

At the request of Chairman Schaible, Mr. Dustin Assel, Legislative Council, reviewed the transportation funding formula as it existed on June 30, 2001. Mr. Assel said the Legislative Assembly, in 2001, moved sections related to K-12 education, including the transportation funding formula, from North Dakota Century Code Title 15 to Title 15.1 during a rewrite of K-12 education provisions. He said these changes were not effective until after June 30, 2001, and some were repealed in 2003. As a result, he said, the formula for transportation grant distribution as of June 30, 2001, would be state statute as it existed after the 1999 session. He said provisions, existing in 1999, regarding transportation aid included sections related to definitions; transportation aid calculations; transportation aid for vocational education and special education; certification of information by the school district business managers; determination and payment of transportation aid, including a 90 percent limitation; and distribution of transportation payments in the event of school district closure.

Chairman Schaible said to prohibit reimbursement for the transportation of open enrollment students, the committee must first draft legislation to establish the transportation formula which does not exist in current statute.

Mr. Berge said transportation reporting by school districts is simple; however, the data reported is not verified. He said it is not known if expenditure data is being consistently reported by all school districts.

Chairman Schaible said a bill draft would provide a basis for committee discussion. He requested the Legislative Council staff to prepare a bill draft to include in statute transportation funding provisions, as the provisions existed on June 30, 2001, including the reimbursement rates provided in Section 10 of Senate Bill No. 2013 (2019). He said the bill draft also should prohibit reimbursement for open enrollment students. However, he said, transportation reimbursement should be allowed for K-6 and K-8 open enrollment students when there is no option in the student's home district.

In response to a question from Senator Rust, Mr. Tescher said if families are contracted by the school district to provide transportation outside the district and meet the requirements for reimbursement, they are reimbursed regardless of whether the school district has a high school.

Dr. Holen suggested the committee review transportation reimbursement rates. He said consolidated school districts are required to provide transportation, and the cost of transportation is an obstacle to consolidation when reimbursement rates are significantly less than cost.

Mr. ElRoy Burkle, Executive Director, North Dakota Small Organized Schools, thanked the committee for addressing transportation aid funding. He said if open enrollment miles for out-of-district students are not reimbursed, the committee may consider continuing to reimburse school districts for K-6 and K-8 transportation and open enrollment ridership. He said the state would reimburse the home district for the same ridership.

Chairman Schaible said the next committee meeting will be in January 2020.

No further business appearing, Chairman Schaible adjourned the meeting at 3:05 p.m.

Sheila M. Sandness
Senior Fiscal Analyst

ATTACH:6