

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EDUCATION FINANCE COMMITTEE

Monday, September 21, 1998
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Layton Freborg, Chairman, called the meeting to order at 10:00 a.m.

Members present: Senators Layton Freborg, Dwight C. Cook, Tony Grindberg, Jerome Kelsh, Les J. LaFountain, Rolland W. Redlin, Terry M. Wanzek, Jim Yockim; Representatives Rick Berg, James Boehm, Michael Brandenburg, Lois Delmore, Pat Galvin, William E. Gorder, Bette Grande, Howard Grumbo, Lyle L. Hanson, Dennis Johnson, RaeAnn Kelsch, Richard Kunkel, David Monson

Others present: See Appendix A

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

At the request of Chairman Freborg, committee counsel summarized a bill draft relating to evidences of indebtedness and the withholding of state aid to school districts. Committee counsel said the bill draft provides that if the Municipal Bond Bank notifies the Office of Management and Budget that a school district has failed to pay the principal or interest on any evidences of indebtedness sold to the bond bank, or if the bond bank believes that a school district will be unable to make a full payment, the Office of Management and Budget shall withhold foundation aid funds until the debts have been paid or until arrangements have been made for their repayment. The withheld funds would then be applied to the required payments.

At the request of Chairman Freborg, Mr. Tom Tudor, Executive Director, Municipal Bond Bank, presented testimony regarding the bill draft. He distributed a copy of proposed amendments to the bill draft. The amendments are attached as Appendix B. He said the first substantive change is that the Department of Public Instruction is the appropriate agency, not the Office of Management and Budget, as provided for in the current draft.

Mr. Tudor said in subsection 1 on page 1, line 12, the phrase "subsequent to the date of this Act" was inserted to ensure that the Municipal Bond Bank could not intercept state aid with respect to any obligations issued before the effective date of the Act.

Mr. Tudor said subsection 3 addresses the instance in which state aid has been intercepted. He said it would allow a school district to withdraw money

subsequent to the interception from a sinking fund when the taxes are collected. He said essentially it prevents the school district from having to put money toward an outstanding issue twice--once through the state aid intercept and once through a deposit to the sinking fund.

Mr. Tudor said subsection 4 has to do with the school construction fund program as it was several years ago. He said under that program, an escrow fund had been established for each participating school district at the Bank of North Dakota. He said in that escrow is an amount that was calculated to provide sufficient money to the bond bank on each payment date to make up the difference between the three percent interest rate on the loans and the interest on the outstanding bond bank bonds. He said earlier this year refunding bonds were issued for some of those obligations, which means that there is more money in the escrow fund than is needed right now. He said they have not actually made the calculation yet, and they have to get together with people from the Bank of North Dakota's trust department. He said they had planned to do that next year when the outstanding bonds are actually called, and then they will determine what the new amount should be for those escrow funds. He said that would free up some money. He said the language in the subsection provides that that money would have to be held by the bond bank and used only in connection with either buying down the interest rate or possibly making some grants to school districts in connection with future loans. He said that is something that his agency would work out with the Department of Public Instruction.

Mr. Tudor said the new Section 3 provides an exception to the requirement that moneys have to stay in a sinking fund until the outstanding bonds are paid in full.

At the request of Chairman Freborg, committee counsel summarized a bill draft relating to school construction loans. Committee counsel said the outstanding principal balance of loans funded from the coal development trust fund is \$25 million. Committee counsel said this bill draft would raise that limit to \$40 million.

In response to a question from Representative Grande, Mr. Tom Decker, Department of Public

Instruction, said school construction funding has changed about three times in the last 10 to 12 years. He said we had a revolving school construction fund. He said that was building up to about a \$25 million fund. He said in the early 1990s those dollars were taken out for other purposes. He said at that point the state went to an interest subsidy program in which the state would buy down the interest rate on construction loans. He said after about four or five years, the state went into the coal development trust fund program where money was loaned to school districts at a reduced interest rate. He said \$25 million has been loaned from that fund, and no additional amounts can be loaned. He said that is why they are asking for a raise in the limit to \$40 million.

Mr. Decker said the guidelines for using the trust fund loan moneys are in the administrative rules. He said the rules provide that up to one-third of the project cost can come from the loan fund. He said the interest rate on those loans is based on a needs formula. He said districts that have greater fiscal needs are eligible for lower interest rates. He said over the next three to five years there are projects that will take up the proposed money unless the reasons are tightened for which the money is made available.

Chairman Freborg called on Dr. Wayne Sanstead, Superintendent of Public Instruction, who said the State Board of Public School Education also takes a definitive look at each application as it comes in. He said there is an approval process at the department level as well. He said in the past we have had districts that hurried to build so they could be the surviving district.

In response to a question from Senator Freborg, Mr. Decker said the original revolving fund was terminated and the money was spent. He said we were on the way to having a viable long-term revolving fund for school construction. He said money was loaned from the fund, and the interest was paid back into the fund. He said there was apparently some urgent need for the \$25 million, and alternative means were found to subsidize school construction.

At the request of Chairman Freborg, committee counsel summarized a bill draft relating to a minimum school district general fund mill levy. Committee counsel said under the provisions of this bill draft if a school district does not levy at least 125 mills, the Superintendent of Public Instruction would withhold from the district's foundation aid 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 levied 125 mills.

In response to a question from Senator Freborg, Mr. Decker said this does not involve a large number of districts. He said this is a fundamental equity issue. He said there is no high school district operating today at a levy that is less than 125 mills. He said this bill draft would not be necessary if the other bill draft

relating to all land in a high school district were to pass.

In response to a question from Representative Berg, Mr. Decker said the statewide average general fund mill levy is 186 mills. He said the statewide average total fund levy is just over 200 mills. He said under this bill draft \$242,000 would be returned to the state general fund.

In response to a question from Senator Wanzek, Mr. Decker said if a school district chose not to raise its levy to at least 125 mills, some of its foundation aid payments would be withheld.

Representative Berg said if a school district is levying a low amount and does not need extra dollars, the extra dollars would be turned over to the state general fund.

At the request of Chairman Freborg, committee counsel summarized a bill draft relating to the placement of all land in a high school district.

Committee counsel said this bill draft provides that each school district must offer kindergarten through grade 12 or become attached through reorganization or dissolution to a district that does offer kindergarten through grade 12. Committee counsel said the requirement would be placed on districts as of June 30, 2002. Committee counsel said the effect of this bill draft is to require that all land be placed in a high school district.

In response to a question from Senator Freborg, Mr. Decker said there are 49 kindergarten through grade 8 districts. He said there are fewer than a dozen cooperatives. He said in these cooperatives the elementary students generally attend school in one district, and the high school students attend school in another district.

In response to a question from Representative Berg, Mr. Decker said the amount set as a payment level in the tuition statutes is paid only for the four years during which the students attend school in the high school district. He said certain long-term costs such as capital costs are not factored into the tuition payments. He said the amount of tuition that is charged for high school students coming from a kindergarten through grade 8 district is set by statute. He said a receiving district cannot charge a higher amount.

At the request of Chairman Freborg, Ms. Joan Holum, Ward County Superintendent of Schools, presented testimony regarding the bill draft. She said Ward County has four graded elementary schools. She said all of them provide excellent educational opportunities for their students. She said closing these schools would be extremely stressful for the residents of the area. She said the people who live in the rural areas around Minot have chosen to live in the rural areas. She said in the 10 years since she has been a county superintendent, she has not received any calls asking to join a high school district.

Ms. Holum said if we just wait the residents of these small elementary districts will decide on their own when it is the right time to close.

Chairman Freborg said this bill draft does not close any schools. He said if the schools are good and viable, there should be no reason to close them. He said all this bill draft requires is that the elementary districts be part of a high school district.

In response to a question from Senator Redlin, Ms. Holum said when school districts are closed or reorganized, people who do not have children in school might find their land placed in a different district.

In response to a question from Representative Kunkel, Ms. Holum said boundary lines would have to be contiguous.

At the request of Chairman Freborg, Mr. Chuck Miller, Administrator, Nedrose Elementary School District, presented testimony regarding the bill draft. He said there are about 260 students in kindergarten through grade 8 and about 120 high school students in his district. He said those students attend high school in other high school districts under tuition agreements. He said he understands that the intent of the legislation is to create tax equity and ensure a quality education. He said the problem is that this bill draft ignores freedom of choice. He said this bill draft would take away from parents a system that they think is very good for their students.

Mr. Miller said this state has always been very supportive of education. He said his tax levy is 202 mills. He said Surrey and Minot are both within 10 mills of that level. He said their patrons would have no significant benefit or detriment if they were to join either the Minot or the Surrey School District. He said his district pays more in tuition dollars than those two high school districts would generate in property tax dollars. He said another real problem is that this bill draft does not address what will happen before the year 2002. He said one-third of the students go to Surrey and two-thirds of the students go to Minot. He said some parents will want to join an existing high school district, and others will want to form their own district. He said others will simply choose to dissolve the district. He said fighting will occur and friendships will be harmed. He said in outlying areas their choices might be limited. He said in his scenario, the community will have many choices over which to fight.

Mr. Miller said every classroom in the district has a minimum of two computers. He said they have a fully developed computer curriculum. He said they have a new state-of-the-art science lab, a new music room, and a new home economics room. He said there is not a textbook in the school that is over five years old. He said they have speech, music, guidance, and health available to all students. He said the system is supported by the residents. He said the bill draft does not address how the decision will take place. He said the legislation should say who is responsible for

initiating this change. He said when the time is right the parents of the schoolchildren will make the necessary changes and the necessary decisions.

In response to a question from Senator Wanzek, Mr. Miller said a bill draft like this would not cause inflexibility. He said his community is prospering. He said it is strong in terms of a population base. He said the school district enrollment has stayed between 250 to 270 during the eight years he has been there. He said he does not see that changing in the next decade. He said some parents like having the option to send their students to a large Class A system like Minot or to a smaller Class B system like Surrey.

In response to a question from Senator Grindberg, Mr. Miller said his school district participates in a lot of cooperative activities with Minot and other surrounding districts. He said if his district attaches to Minot the provision of transportation will cause a problem for the Minot School District. He said we need to look at options that are good for everybody.

Senator Redlin said the people in Nedrose are obviously very involved in the education of their children from kindergarten through grade 8. He said he wondered why they are not equally concerned about what happens between grades 9 through 12. He said he wondered why the residents were not concerned enough to want a say about what classes are offered and what course material is included.

Mr. Miller said his community values its ability to make choices between facilities such as Surrey and Minot. He said both are unique and good at what they do. He said because of that, the residents of Nedrose are not concerned about the environment in which they are placing their high school children. He said because they trust both high school districts they have not been concerned about needing a seat on either school board.

At the request of Chairman Freborg, Mr. Wayne Stanley, Administrator, South Prairie School District, presented testimony regarding the bill draft. Mr. Stanley said South Prairie is a kindergarten through grade 8 district, but the school board is also looking at where the district should go in the future. He said South Prairie abuts the south side of Minot. He said some of the small elementary districts are already cooperating. He said for such districts, this bill draft proposes to tell them that they should go from having two school boards to having only one school board. He said for elementary districts that have some options, this bill draft would make it more difficult. He said this bill draft will generate the need for additional construction dollars. He said even if the elementary districts joined together, they would need to build. He said if the excess students were sent to Minot another problem is created. He said Minot does not have the capacity to include the students.

Mr. Stanley said the bill draft does not touch on the issue of foundation aid. He said a school district of 80 gets more foundation aid dollars than a school district

of 300. He said because North Dakota is losing families very fast he knows he will have to become a high school district, join a high school district, or dissolve. He said, however, he also needs to know that the state of North Dakota will stand behind his district and his area and assist them in meeting the intent of this legislation.

In response to a question from Senator Freborg, Mr. Stanley said the school district transports its high school students to Minot. He said he does not transport them for early elective classes.

In response to a question from Senator Wanzek, Mr. Stanley said the three districts give Minot about \$3 million annually in tuition payments. He said if the property were brought into the Minot School District, it would not generate this much through taxation.

At the request of Chairman Freborg, Mr. Dean Bard, North Dakota Small Organized Schools, presented testimony regarding the bill draft. He said his board of directors asked him to convey the fact that they are not in favor of this legislation. He said they believe that any legislation that encourages districts to reorganize or consolidate should be opposed. He said the reorganization or consolidation of districts is best done by people at the local level making informed decisions at the appropriate time.

Mr. Bard said this concept was considered during the 1969 legislative session. He said if this was such a good idea, it would have been adopted 30 years ago.

At the request of Chairman Freborg, Mr. Daryl Flagen, Yellowstone School District, presented testimony regarding the bill draft. He said his school district borders Montana. He said since 1952 the Yellowstone School District has tuitioned all of its students into the Fairview, Montana, School District. He said most of his school district population lives within three miles of the border. He said if they remove their 36 students they would affect one of the largest Class C schools in Montana. He said they support a high school outside their state and they raise 68 mills to support the high school, and they pay \$100 per high school student into the computer fund.

Dr. Sanstead said for purposes of equity and educational opportunity, all land should be in a high school district.

At the request of Chairman Freborg, committee counsel summarized a bill draft relating to an educational technology acquisition levy. Committee counsel said this bill draft would replace the current long-distance learning and educational technology levy with a new educational technology levy. Committee counsel said the former levy was limited to five mills and required voter approval. Committee counsel said the new levy would also be limited to five mills but would require only school board approval.

Committee counsel said the bill draft also provides that if more than \$7 million is left over from the 1997-99 foundation aid appropriation, \$7 million

would be appropriated to the Superintendent of Public Instruction to award school districts matching grants for educational technology acquisition. Committee counsel said under the bill draft school districts could arrive at their share of the matching funds by using general fund dollars or by using moneys raised under the old long-distance learning and educational technology levy.

At the request of Chairman Freborg, Mr. Max Laird, President, North Dakota Education Association, presented testimony regarding the bill draft. He said moving money back to the school districts is the right idea. He said the question that exists is what is the appropriate vehicle for such action. He said if money is made available to school districts for technology, it will be used for technology. However, he said, another problem exists and that is the need for money to pay teacher salaries. He said school districts are having trouble maintaining substitute teachers and are having trouble recruiting teachers in areas such as chemistry, physics, and music.

Mr. Laird said other states are raising teacher salaries or at least requiring a minimum starting teacher salary so that all districts can recruit equally. He said we are also developing salary discrepancies within the state. He said we will need fewer teachers during the coming years, but we will still need to recruit and retain quality teachers.

Mr. Laird asked the committee to return as many dollars as possible to the schools using whatever vehicle possible. He distributed a document entitled "Many millions of kids and too few teachers." The document is attached as Appendix C.

COMMITTEE CONSIDERATION OF BILL DRAFTS

It was moved by Representative Berg, seconded by Representative Grande, and carried on a voice vote that the bill draft relating to evidences of indebtedness and the withholding of state aid be amended as per the suggestions offered by Mr. Tudor.

Representative Berg said the bill draft, as amended, is more comprehensive than the earlier versions.

It was moved by Representative Berg, seconded by Representative Delmore, and carried on a roll call vote that the bill draft relating to evidences of indebtedness and the withholding of state aid, as amended, be approved and recommended to the Legislative Council. Senators Freborg, Cook, Grindberg, Kelsh, LaFountain, Redlin, and Wanzek and Representatives Berg, Boehm, Brandenburg, Delmore, Galvin, Grande, Grumbo, Hanson, Johnson, Kelsch, Kunkel, and Monson voted "aye." No negative votes were cast.

It was moved by Representative Kunkel, seconded by Representative Hanson, and carried on a roll call vote that the bill draft relating to

school construction loans be approved and recommended to the Legislative Council. Senators Freborg, Cook, Grindberg, Kelsh, LaFountain, Redlin, and Wanzek and Representatives Berg, Boehm, Brandenburg, Delmore, Galvin, Grande, Grumbo, Hanson, Johnson, Kelsch, Kunkel, and Monson voted "aye." No negative votes were cast.

Representative Berg said with respect to the bill draft that requires each school district to levy a minimum of 125 mills, the amount so required approximates 65 percent of the state average general fund mill levy. He said he is concerned that when a specific mill levy is put in statute, it will stay that way for 20 or 30 years. He said if a percentage is used, it would rise and fall as the state average mill levy rises and falls.

It was moved by Representative Berg, seconded by Representative Kunkel, and carried on a voice vote that the bill draft requiring each school district to levy 125 mills be amended by referencing 65 percent of the prior year's state-wide average school district general fund levy.

Senator Wanzek said no self-respecting school board will let taxpayer dollars leave their district. He said they will simply keep what they do not spend. He said, therefore, he does not see how this bill draft will benefit anyone.

Representative Monson said if the amendment on the bill draft would become effective, school districts would find their general fund mill levy spiraling upward every year.

Representative Berg said the concern is that we have some districts with a very low tax levy. He said the residents of those districts are not taxing themselves anywhere near the level that residents of other districts have to tax themselves. However, he said, those districts making very little tax effort are still receiving foundation aid.

It was moved by Senator Kelsh, seconded by Senator Wanzek, and carried on a roll call vote that the bill draft requiring each school district to levy 125 mills, as amended, not be approved. Senators Freborg, Cook, Kelsh, LaFountain, and Wanzek and Representatives Boehm, Brandenburg, Galvin, Johnson, Kelsch, and Monson voted "aye." Senators Grindberg and Redlin and Representatives Berg, Delmore, Grande, Grumbo, Hanson, and Kunkel voted "nay."

In response to a question from Senator Grindberg, Mr. Decker said the East Fairview situation is covered under other laws governing crossborder attendance.

In response to a question from Representative Monson, Mr. Decker said students who are beginning to attend school now would need permission from their school district of residence to attend crossborder schools.

It was moved by Senator Wanzek, seconded by Representative Boehm, and defeated on a roll call vote that the bill draft requiring all land to be in a

high school district not be approved. Senators Kelsh, LaFountain, and Wanzek and Representatives Boehm, Brandenburg, Delmore, Grumbo, Johnson, and Monson voted "aye." Senators Freborg, Cook, Grindberg, and Redlin and Representatives Berg, Galvin, Grande, Hanson, Kelsch, and Kunkel voted "nay."

It was moved by Senator Grindberg, seconded by Senator Redlin, and carried on a roll call vote that the bill draft requiring all land to be in a high school district be approved and recommended to the Legislative Council. Senators Freborg, Cook, Grindberg, and Redlin and Representatives Berg, Galvin, Grande, Hanson, Kelsch, and Kunkel voted "aye." Senators Kelsh, LaFountain, and Wanzek and Representatives Boehm, Brandenburg, Delmore, Grumbo, Johnson, and Monson voted "nay."

Senator Wanzek said this is another example of the state telling local people what is best in running their communities and their schools. He said he has a problem with the state forcing this.

Representative Berg said with respect to the bill draft that appropriates \$7 million to the Superintendent of Public Instruction for technology acquisition matching grants, foundation aid funds will be carried over this biennium. He said we should not establish another contingency fund for technology. He said he is opposed to having education dollars earmarked. He said he prefers that the local districts decide how to expend any moneys that are made available.

Representative Monson said any bill draft that provides matching technology moneys could be put to good use.

It was moved by Representative Berg, seconded by Representative Kelsch, and carried on a roll call vote that the bill draft to implement an educational technology acquisition levy and appropriate \$7 million for matching technology acquisition not be approved. Senators Cook, Grindberg, Kelsh, and Wanzek and Representatives Berg, Boehm, Brandenburg, Grande, Grumbo, and Kelsch voted "aye." Senators Freborg, LaFountain, and Redlin and Representatives Delmore, Galvin, Hanson, Johnson, Kunkel, and Monson voted "nay."

Senator Kelsh said what is happening in North Dakota and across the nation is that we are not able to recruit and retain teachers. **It was moved by Senator Kelsh and seconded by Senator LaFountain that the Legislative Council staff be requested to draft a bill that would take the \$12 million anticipated as foundation aid carryover dollars and dedicate half of it to property tax relief and half of it to the enhancement of teacher salaries.** Chairman Freborg ruled the motion out of order. Senator Kelsh appealed the ruling of the chairman.

Chairman Freborg said Senator Kelsh can certainly introduce such a bill during the session. However, he said, this committee is beyond the point of requesting new bill drafts. He said the committee

may wish to overrule the chair, but as chairman, it is his decision not to allow a motion to request a new bill draft at this late date.

Senator Redlin said while he is reluctant to disagree with Senator Kelsh, the reality is that the committee has rules of operation. He said the committee has rules as to when a bill draft has to be brought in and how many times it has to be considered by the committee. He said if the committee wishes to consider new concepts at this point, there would have to be a suspension of the rules.

Senator Freborg said he is not sure that the rules would prevent it if it were the committee's wish. But, he said, the committee needs to come to a point of finality. He said he had made it very clear at the last two meetings that this particular meeting would be our last meeting and that we would not accept any bill drafts at this meeting. He said every committee operates that way. He said every committee has to come to a point when there are no more bills.

Representative Berg said Chairman Freborg, as the committee chairman, has made a decision not to allow motions requesting any additional bill drafts. He said what the committee needs to do now is to determine whether they support the chairman's ruling or disagree with it.

Senator Kelsh asked for a roll call vote on his appeal of the ruling of the chairman. Senators Freborg, Cook, Grindberg, Redlin, and Wanzek and Representatives Berg, Boehm, Brandenburg, Galvin, Grande, Johnson, Kelsch, Kunkel, and Monson voted "aye." Senators Kelsh and LaFountain and

Representatives Delmore, Grumbo, and Hanson voted "nay." The ruling of the chairman was upheld.

It was moved by Representative Kunkel, seconded by Representative Berg, and carried on a roll call vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Council. Senators Freborg, Cook, Grindberg, Kelsh, LaFountain, Redlin, and Wanzek and Representatives Berg, Boehm, Brandenburg, Delmore, Galvin, Grande, Grumbo, Hanson, Johnson, Kelsch, Kunkel, and Monson voted "aye." No negative votes were cast.

It was moved by Representative Kunkel, seconded by Senator Grindberg, and carried on a roll call vote that the meeting be adjourned sine die. Senators Freborg, Cook, Grindberg, Kelsh, LaFountain, Redlin, and Wanzek and Representatives Berg, Boehm, Brandenburg, Delmore, Galvin, Grande, Grumbo, Hanson, Johnson, Kelsch, Kunkel, and Monson voted "aye." No negative votes were cast.

L. Anita Thomas
Committee Counsel

ATTACH:3