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JANUARY 2013

Excellence in North Dakota public education through local school board governance ■ VOL XXXVIII ISSUE 1

2013 Session Begins

The Sixty-Third Legislative Assembly convened on Tuesday, January 8, 2013. NDSBA is currently tracking over 80 bills, including those relating to property tax reform, education funding, concussion management, school district calendar, high school graduation requirements, and duty to report a missing child.

You can access bills being tracked by NDSBA and follow the association's legislative activities during the Session on NDSBA's website at www.ndsba.org/legislation/legislationindex.asp. A weekly legislative newsletter and hearing schedule will be posted every Friday. It is important to check our website often for updates and bill status.

NDSBA has drafted legislation pertaining to medication administration and allowing a person to provide medications in a school if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian. The bill also allows for teachers or other classified staff to choose not to administer medication and provides for liability protection.

In addition to bills mentioned above, we encourage you to take note of the

following:

HB1013 – DPI budget

HB1028 – Amends concussion management program requirements

HB1038 – Appropriates money

to DPI to provide training and support for teachers and staff regarding autism spectrum disorders

HB1050 –

Authorizes DPI to develop and implement a pilot program for at-risk American Indian students

SB2125 – Creates a duty for a caregiver to report a missing child.

Failure to report a missing child under this bill would be a Class C felony. The definition of caregiver includes "other individual responsible for a child's welfare."

SB2129 – Amends the state building code to require that buildings classified as educational and required by the state building code to be accessible must have an automatic door or power-assisted manual door at the main entrance that complies with ADA

SB2036 and **SB2037** – Relate to deposits of the state's share of oil and gas taxes and property relief tax through allocation of state funding to school districts for mill levy reduction grants

Board members will want to communicate regularly with local legislators regarding bills that impact

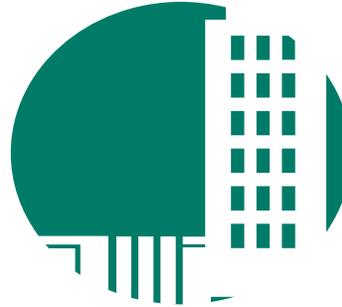
their districts. It is also important to build coalitions with parent, business, and farm organizations to broaden advocacy efforts. Legislators are always interested in local impact of proposed legislation.

During a legislative session, a legislator can be reached through email or by leaving a message with the legislative

telephone message center at 1-888-NDLEGIS (635-3447).

When contacting your legislator, please follow these guidelines:

- Your purpose should be addressed in the subject line, the first paragraph, or at the start of the phone call. Identify specifically which legislation your contact pertains to (e.g., HB1013 or SB2019).
- Be specific and include key information, using examples to support your position.
- Address only one issue in each contact and keep your contact short and on topic.



School Board Recognition Month

January is School Board Recognition Month. NDSBA thanks those individuals who devote their time, energy, and talents to North Dakota students by serving on their local school boards. They are remarkable citizens.

North Dakotans know the best government is closest to the people it serves. Board members live and work close to students, parents, and educators and, therefore, know their needs and desires better than anyone.

With ever-increasing challenges in providing quality, rigorous education to students, efforts of local school boards are more important than ever. The work of school boards forms the foundation for excellence in instruction and student academic success.

Thank you, school board members, for your dedicated service!

NDSBA Negotiations Seminar

NDSBA's Negotiations Seminar will be held **February 8 and 9, 2013**, at the Ramkota Hotel in Bismarck. Two Early Bird Sessions will be held on **Thursday, February 7**.

Registration forms are at: <http://www.ndsba.org/Events/NegSem2013regis.pdf>. Call the Ramkota Hotel at (701)258-7700 for sleeping room reservations.

EARLY BIRD SESSIONS

NONRENEWAL TRAINING

Teacher nonrenewal training will begin at **2:00 p.m. on Thursday**. We will provide a review of the nonrenewal process, starting with the importance of meeting the statutory requirements and deadlines for teacher evaluations. Performance-based (cause) nonrenewal, first-year teacher nonrenewal, and reduction-in-force nonrenewal will be discussed. Resignation and contract breach will also be covered in this two-hour early bird session.

SUPERINTENDENT SELECTION AND EVALUATION

A new addition to this year's seminar

will be a **Thursday** evening early bird workshop for board members. Beginning at **7:00 p.m.**, we will discuss superintendent selection and evaluation including the hiring process, issuing superintendent contracts, complying with statutory requirements for evaluation, drafting improvement plans, and the nonrenewal process.

NEGOTIATIONS 2013

The first of two featured speakers kicks off the seminar at 8:30 a.m. Ron Wilson is the Executive Director of the North American Association of Educational Negotiators (NAEN). The association has members throughout the United States and Canada whose activities include training, networking, consultation, program planning, and crisis intervention in all areas of labor negotiations. Mr. Wilson has over 37 years of experience in public sector negotiations, including school districts, and is the former Associate Executive Director of the Oregon School Boards Association.

Also featured this year is Ken Babcock, Director of Employee Relations for Lincoln Public Schools in Lincoln, Nebraska. His past experience includes serving as superintendent of two different school districts and as School Systems Manager for Blue Cross/Blue Shield of Nebraska. Mr. Babcock has expertise related to the Patient Protection and Affordable Care Act (PPACA) which will increase health insurance coverage for school district employees. Although districts have negotiated for years in an environment of increasing insurance costs, PPACA exacerbates the problem and board negotiators need an understanding of the Act in order to understand its complexity.

Schedule at a glance:

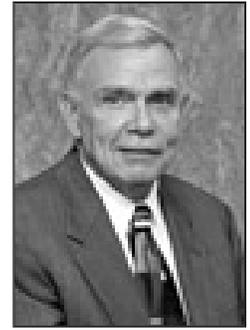
FRIDAY, FEBRUARY 8

8:30 a.m. – 4:00 p.m. (lunch included)

- Mistakes in Bargaining
- Nuts and Bolts of Negotiations
- Erosion of Board Authority
- Strategy
- Health Care Issues
- "Compensation" and the 70 Percent Rule



Ron Wilson



Ken Babcock

- Teachers' Fund for Retirement (TFFR)
- Costing the Package

SATURDAY, FEBRUARY 9

8:30 a.m. – 12:00 p.m.

- Negotiations Components
- Drafting Leave Language
- Impasse Flow Chart
- Preparation for Impasse
- Fact Finding Commission
- Legislative Issues

Stay informed about what's happening at the legislative session by visiting NDSBA's webpage at www.ndsba.org.

Follow Legislative links to:

- Bill tracking
- Weekly hearing schedule (posted Friday)
- Weekly legislative newsletter (posted Friday)

Nonrenewal Handbook Available for Purchase

With nonrenewal deadlines quickly approaching, now is the time to prepare. NDSBA has developed a handbook on teacher nonrenewal, discharge, and resignation. The handbook guides users through each of these processes from start to finish. It contains suggested timelines, step-by-step guidance based on law and best practices, sample board motions, and nonrenewal forms in a fillable format. The handbook is available for \$200 (includes three years of updates) by clicking the NDSBA Store icon on the NDSBA homepage (www.ndsba.org). Upon purchase, your district will receive a password to access the handbook online, and the handbook can be downloaded and printed.

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comments of counsel

by Annette Bendish, NDSBA Legal Counsel



Open Meeting Opinions Issued by the Attorney General

On January 10, 2013, the North Dakota Attorney General's Office issued two opinions regarding open meetings. These opinions provide good reminders to school boards to ensure that they are providing adequate notice, drafting special meeting notices correctly, and conducting executive sessions appropriately.

The first opinion, 2013-O-1, addressed the notice and agenda requirements for a special board meeting under North Dakota Century Code section 44-04-20(6), specifically the requester of the opinion alleged that the notice was deficient because the newspaper was not given notice, the description of the meeting topic was vague, and the notice included the phrase "additional topics may be discussed."

The Attorney General stated in his opinion that the obligation under section 44-04-20(6) to notify the public entity's official newspaper only requires the governing body to make the newspaper aware of the upcoming special meeting and does not require that the notice be published prior to the special meeting.

In addressing whether the meeting

topic was vague, the Attorney General stated that the purpose of an agenda is to provide sufficient information to interested members of the public concerning the governing body's anticipated business in order that they may attend the meeting to take whatever other action they deem appropriate. The use of "special policy meeting" on the agenda was too vague. In the situation discussed in the opinion, the business manager realized the mistake and took steps to ensure that no additional topics other than the "special policy" were discussed. The Attorney General concluded that because no additional topics were discussed, the use of the phrase on the meeting notice was not a violation of law.

Finally, the Attorney General reiterated in his opinion that including the phrase "additional topics may be discussed" or other catch-all phrases such as "other business" or "additional topics" are not appropriate for special meetings. The topics that may be considered at special meetings are limited to those included in the notice.

The second opinion, 2013-O-2,

focused on the issue of whether a final decision was made in executive session in violation of section 44-04-19.2. The facts presented in the opinion stated that the commission in question held an executive session to discuss pending litigation. The commission explained that no vote was taken in the executive session because it was providing guidance to legal counsel on how to respond to pending litigation.

The Attorney General agreed and held that the commission gave instructions to its attorney to reject the demand made to the commission. Although section 44-04-19.2 requires that any final action concerning the topics discussed or considered during an executive session must be taken at a meeting open to the public, section 44-04-19.1(9) authorizes an executive session to provide negotiating instructions to an attorney, and the guidance provided to an attorney regarding negotiation is not considered "final action." Therefore, the Attorney General determined that a violation of the open meeting law did not occur.

These and other open meetings and records opinions can be found on the Attorney General's website at www.ag.nd.gov/Opinions/OpenRecordsAndMeetingsOpinions1997-ToDate.htm.

Superintendent Evaluation Deadline March 15

North Dakota law requires that a school board complete the superintendent's summative evaluation process before **March 15**. This means all paperwork, compilations, and public discussion of the evaluation must occur before March 15. A board cannot complete the process if they wait until the March meeting.

It is best to start the process early in February to ensure compliance with the statutory deadline. The statute also requires that the superintendent be evaluated using a satisfactory or unsatisfactory rating.

Session Dates and Deadlines

January 8	Session begins
January 21	Deadline for Representatives to introduce bills
January 28	Deadline for Senators to introduce bills
March 1	Deadline for bills to cross over to the other chamber
March 4-5	Crossover recess
April 10	Bills must be reported out of committee
May 1	80th day—Constitutional limit for Session duration

You can access all legislative information on the Legislative Council website at: www.legis.nd.gov.

Labor Relations Reminders

Every February, NDSBA begins receiving calls about procedures associated with negotiations, contract offerings, and nonrenewals. Below is a brief summary of legal dates and deadlines.

Offering of contracts to returning teachers	Contracts can be offered no earlier than March 1 nor later than May 1 . If formal negotiations are in progress, the May 1 deadline does not apply. (NDCC 15.1-15-04)
Notice of contemplated nonrenewal	Notice can be given no earlier than March 1 nor later than April 15 with hearing held on or before April 21. (NDCC 15.1-15-05)
Opening negotiations	Either party may give notice of desire to negotiate—notice must be given no less than sixty days before the annual anniversary date of the contract (NDCC 15.1-16-13). A district's negotiated agreement may have a notification deadline earlier than the sixty days, in which case that date would be followed. It is good to start early so you can have contracts out before the end of school or, or at the very least, before school starts in the fall. (In legislative years, you should wait until the end of the Session so you know what state funding will be and if there will be new state mandates affecting contracts.)

STATE MILEAGE RATE CHANGES!

As of January 1, 2013, state rate for mileage reimbursement is 56.5¢ per mile.

State mileage rates can be found on the North Dakota Office of Management and Budget website at www.nd.gov/fiscal/policies/ under Updates to Fiscal and Administrative Policy. There is also a direct link on the NDSBA webpage under QuickClicks.



2013 NDSBA Negotiations Seminar
February 7-9, 2013
Ramkota Hotel, Bismarck

2013 NSBA Annual Conference
April 13-15, 2013
San Diego, California

2013 NDSBA Annual Convention
October 24-26, 2013
Ramkota Hotel, Bismarck

2014 NDSBA Annual Convention
October 23-25, 2014
Ramkota Hotel, Bismarck



Oakes School District
Contact: Jon Martinson
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e-mail: Jon.Martinson@ndsba.org
Deadline: February 15, 2013
Position begins: July 1, 2013

