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NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

JANUARY 2019

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

Updates from the Capitol



The 66th Legislative Assembly of the State of North Dakota kicked off on January 3 with Governor Burgum's third State of the State address. In his address, the Governor outlined his policy agenda for the session, which addresses the state's workforce challenges, increases accountability and budget transparency, and aims to make a number of significant investments without raising taxes.

A number of the Governor's proposed initiatives were education-related, including:

- Addressing the state's workforce shortage by dedicating \$30 million in Legacy Fund earnings to create more career academies across the state like the collaborative between Bismarck Public Schools and Bismarck State College;
- Investing an additional \$25 million in the school construction revolving loan fund; and
- Using \$10 million of unspent state aid money from the 2017-19 biennium for TILE, Teacher Incentives in Leadership for Education. This fund would allow districts to provide professional development or offer project-based incentives to teachers working on academic initiatives in the district.

On the same day as the State of the State address, the House and Senate Appropriations Committees were presented with an updated revenue forecast. The forecast predicted a slightly steeper increase in oil prices than anticipated despite the fact that prices were currently sitting at \$5-9 less per barrel than those used to calculate the Governor's budget. Skepticism surrounding oil prices and a 13.3 percent

decrease in expected sales and use tax revenue for 2019-21 has legislators taking a cautious approach to spending.

However, legislators are taking a much less bridled approach to introducing new legislation. After the first full week of activity, they had already submitted 664 bills and resolutions for consideration. With ten days until the deadline to introduce bills and two weeks to introduce resolutions, many are anticipating topping last session's total of 834. The NDSBA team is busy tracking nearly 140 of those bills.

Some of the more significant bills to school boards that have been introduced so far include:

- Changes to the state foundation aid formula (HB 1152 and SB 2160)
- A repeat of last session's Sentinel Bills (HB 1332), now being dubbed the "armed first responders" bill
- A number of bills making changes to how districts calculate seat time and make up lost days
- New requirements for bus drivers
- A bill that would allow districts to levy 5 mills for safety with voter approval (SB 2052)
- Several bills that would mandate new curriculum in the Bible (SB 2136), sexual abuse (HB 1237 and HB 1277), and mental health awareness and suicide prevention (SB 2149)
- A bill to increase the liability limit of political subdivisions to \$1 million (SB 2166)
- A bill that would prohibit felons from obtaining a seat on a school board (SB 2230)

There has also been significant discussion surrounding the Common Schools Trust Fund. With more than \$4.2 billion in the fund and a proposal to use \$366.7 million for state-aid payments for

public schools (more than 4.5 times the \$77 million used in 2009-11), the fund is attracting a lot of attention. There have been a few proposals to direct some of the revenue to a revolving loan fund for school construction and renovation, effectively reducing the number of dollars available for state aid payments.

To keep up with NDSBA's legislative activities, watch for our Friday afternoon updates via email and on www.ndsba.org. If you're not receiving the updates, please contact us at 800.932.8791 to ensure we have your correct email address on file. You can also track the 66th Legislative Assembly at legis.nd.gov.

Finally, if you plan to attend the 2019 Education Leaders Day at the Capitol on January 28 and have not yet signed up at www.ndsba.org, please do so as soon as possible.

Dashboard Improvements Make New Education Data Easy to Find



State Superintendent Kirsten Baesler said data about North Dakota's student demographics, school finances, and college enrollment are included in the most

recent update to the state's education dashboard.

The dashboard uses charts and graphs to present education data in formats that are easy to read and comprehend. Visitors may look up statewide data and information about specific schools and school districts. The dashboard may

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Reminder – Negotiations Seminar Registration Open

Registration for the 2019 Negotiations Seminar is now open at www.ndsba.org. Registration costs increase on January 29, so register now! Call the Ramkota Hotel to make your hotel reservations at 701-258-7700. We hope to see you there!



Legal Spotlight

Teaching About Religion in Schools: Is it Possible?

by Amy De Kok, NDSBA Legal Counsel

The 66th Legislative Assembly commenced on Thursday, January 3, 2019, and in just over a week since then, NDSBA has been busy tracking what appears to likely be a record number of pre-filed bills. One such bill is SB 2136, which seeks to amend section 15.1-21-02 of the North Dakota Century Code to require each public high school in the state to make available to each student one-half unit of instruction on the old testament of the Bible, the new testament of the Bible, or a combination of the two. SB 2136 further seeks to amend section 15.1-21-02.2, which sets forth high school graduation requirements, to allow one-half unit of the required three units of social studies to be replaced by "Bible studies." NDSBA plans to oppose SB 2136 as currently drafted because it would require public schools in the state of North Dakota to violate the Establishment Clause of the First Amendment of the U.S. Constitution, as well as the North Dakota Constitution.

The U.S. Supreme Court has long held that the Establishment Clause prohibits the government from designating an official religion, supporting a specific denomination or religion, or promoting

religious activity. The Court has developed a constitutional test for the Establishment Clause that is commonly known as the *Lemon* test. The three elements of the *Lemon* test are: (1) The statute must have a secular legislative purpose; (2) The statute's principal or primary effect must be one that neither advances nor inhibits religion; and (3) the statute must not foster an excessive government entanglement with religion. If the government action fails just one of the three prongs of the *Lemon* test, then the action will be considered in violation of the Establishment Clause. NDSBA believes SB 2136 would likely fail all three prongs of the *Lemon* test, and if challenged, would be declared in violation of the First Amendment. If passed, SB 2136 could place public schools at significant risk of litigation and the incurrence of expenses associated with defending against such claims.

So, is it possible to provide instruction about religion and not be in violation of the Establishment Clause? The short answer is yes, it is possible. However, this issue is fraught with potential pitfalls too numerous to cover in this article.

What I can say is that when presented in the proper context, neutrally as part of a secular program, instruction about religion does not endorse a particular religion, does not violate the Establishment Clause, and can be an important component to education. Indeed, the U.S. Supreme Court has stated, "the history of man is inseparable from the history of religion." The key to lawful inclusion of religion in curriculum is context. If the instruction is part of a secular program and is neutrally discussed, it should be lawful. Districts must not prohibit particular methods of teaching about religion but permit those same methods for teaching about nonreligious topics. Doing so would likely lead to a successful legal challenge on constitutional grounds.

NDSBA will continue to track the progress of SB 2136 and report to our member districts. In the meantime, please stay tuned!

Policy Updates

Policy Services Launches New Video Resource

by Rebecca Duben,
Policy Services Director

Keeping your employees informed about updated laws and district policy is critical



and can be overwhelming--especially to new board members or administrators. A primary function of the North Dakota School Boards Association is to support and improve policymaking for school boards. NDSBA's Policy Services, a subscription-based program, is designed to enhance your board's ability to effectively govern the district. Policy Services offers our membership a knowledgeable staff, variety of publications, and templates to assist with the policy process that will keep districts in legal compliance.

We've found that this sometimes isn't enough. To remain responsive to the needs of our member districts, Policy Services is pleased to announce the launching of a new educational video resource called **Policy Services Video Edition**. This online resource is free to all Policy Services members and available for viewing 24/7. Knowing your time is important, these videos will be short in duration but full of valuable information. Initial video topics include:

- Navigating the Policy Services website
- Policy adoption process

- Comparing existing policies to NDSBA templates
- Information on other Policy Services fee-based services

These videos will also allow our staff to share Frequently Asked Policy Questions and answer how they may affect your district.

Videos will be uploaded each month to our Policy Services website under Policy Ponderings at policy.ndsba.org. We encourage you to check out this new service and give us your feedback or suggestions for topics by responding to rebecca.duben@ndsba.org.

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 begin 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.

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NSBA Issues Statement in Response to Final Report of the Federal Commission on School Safety

by Thomas J. Gentzel, Executive Director and CEO

School boards have worked diligently and consistently for many years to enhance security, and they continue to take action to protect students, teachers, administrators and visitors. They are engaged in a constant effort to create safe environments and to ensure that public schools are sanctuaries for learning and teaching. Schools have produced safe environments for tens of millions of students, and they are among the safest places for children.

The National School Boards Association is pleased that several of our recommendations are included in the **Final Report of the Federal Commission on School Safety** issued recently. Our recommendations include allowing local school districts to customize approaches that best fit their communities, providing more support for school resource officers, and improving school-based mental health and counseling for our youth. We agree with the Commission's recommendations to

foster collaboration among government organizations. Increasing and facilitating information-sharing can bolster productive intervention before a crisis occurs.

Addressing student and school safety requires a comprehensive approach with sustained resources for locally-determined programs. School districts have consistently made investments in infrastructure to secure buildings by installing safeguards like access control and visitor management systems and both interior and exterior surveillance cameras. Schools conduct crisis preparedness drills and work closely with local law enforcement agencies. Some schools employ a school resource officer -- a sworn police officer who works on school property. Continuing this important work by school districts requires uninterrupted funding and flexibility so that the funds allocated by local school leaders meet the needs in their school district.

As the conversation continues about additional measures to enhance school

safety, the federal government could play a critical role. Additional federal funds should be allocated to support school resource officers, to expand mental health services and school counseling, and to enhance school building design and construction initiatives.

School board members have actively fostered and engaged in conversations with their communities and fellow government officials at the local, state and federal levels. As guardians of our future generations, school boards are tirelessly working to address a range of complex issues that are essential to enhancing security so students can learn in a safe environment and teachers can teach without fear.

■ Dashboard

Continued from page 1

be viewed at <https://insights.nd.gov/Education>.

"The dashboard offers a more comprehensive picture of our schools that parents, school community members, and other interested North Dakotans may use to look up details on how their education dollars are invested," Baesler said.

"We also welcome suggestions about what other kinds of education data North Dakotans would like to see as part of the dashboard," Baesler said.

The dashboard can be used to look up school enrollments and attendance rates, graduation rates for individual high schools, education backgrounds of teachers, school spending, and student performance information for both the North Dakota State Assessment for English and math and the National Assessment of Educational Progress. The NAEP test is administered nationally every two years, and its results have been nicknamed "America's Report Card."

Baesler said North Dakota schools are using the information to draft plans on how they can improve student learning opportunities. The dashboard is designed to be a dynamic and powerful communication tool, and it will provide additional information as its development continues, she said.

The dashboard is a joint project of the North Dakota Department of Public Instruction, North Dakota Information Technology Department, North Dakota University System, and Otis Educational Systems Inc., an education data analysis company.

NDRPA to Host Certified Playground Safety Inspector Course

The North Dakota Recreation & Park Association (NDRPA) is holding its 17th annual Certified Playground Safety Inspector (CPSI) Course March 19-21, 2019, in Bismarck.

Participants have the opportunity to learn about the latest developments in playground safety through classroom instruction and hands-on site investigation during this two-day course. Individuals interested in becoming a certified playground safety inspector may take the optional exam on the third day.

Sponsorships from the North Dakota Parks & Recreation Department and the North Dakota Insurance Reserve Fund (NDRIF) make this first-class course, hosted by the Bismarck Parks & Recreation District, possible.

Scholarships available

Scholarships are available to NDIRF and NDRPA members. The first 28

individuals to apply will receive a scholarship (\$410 value) to cover the course registration fee. This means members pay only the \$115 exam fee to attend.

The scholarship is limited to four people per agency and distributed on a first-come, first-served basis. If an agency submits more than four scholarship requests, additional requests will be placed on a waiting list to be awarded on a first-come, first-served basis after January 25.

Register today

The final registration deadline for the course is February 15. The course schedule and registration details are available at www.ndrpa.com.

For more information, contact NDRPA at 701-355-4458 or sschutt@clearwatercommunications.net.

State Mileage Rate Changes



As of January 1, 2019, state rate for mileage reimbursement is \$0.58 per mile.

State mileage rates can be found on the North Dakota Office of Management and Budget website at

www.nd.gov/omb/agency/financial/fiscal-policies under Fiscal and Administrative Policy Updates Updated 1/1/2019.

Mileage rate updates can also be found on NDSBA's webpage under QuickClicks: Mileage Reimbursement Rate (link to www.gsa.gov website).



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Book Rooms for 2020 NDSBA Convention

NDSBA's 2020 Annual Convention will begin on Thursday, October 29, with the Law Seminar and New Member Seminar. Regular convention activities will begin that afternoon and conclude on Friday afternoon, October 30.

The Ramkota began taking room reservations for the 2020 Annual Convention on **January 1, 2019**. Call the Ramkota at 701-258-7700 for room reservations. Secure your room early!



Pingree-Buchanan School District
Superintendent/High School Principal
Contact: Alexis Baxley
Phone: 701-255-4127
Email: alexis.baxley@ndsba.org
Application: www.ndsba.org
Deadline: January 28, 2019
Position Begins: July 1, 2019

Twin Buttes School District
Contact: Alexis Baxley
Phone: 701-255-4127
Email: alexis.baxley@ndsba.org
Deadline: February 28, 2019
Position Begins: July 1, 2019



2019 School Leadership Day at the State Capitol
January 28, 2019
Bismarck, North Dakota

2019 NDSBA Negotiations Seminar
February 7-8, 2019
Ramkota Hotel, Bismarck

2019 NSBA Annual Conference
March 30-April 1, 2019
Philadelphia, Pennsylvania

2019 NDSBA Annual Convention
October 24-25, 2019
Ramkota Hotel, Bismarck

2020 NDSBA Annual Convention
October 29-30, 2020
Ramkota Hotel, Bismarck

Legislative Updates



Updates from the 2019 Legislative Session will be sent to NDSBA members weekly by email. If you have not been receiving emails from NDSBA, please call Julie at 1-800-932-8791 to ensure we have the correct email address on file.

NSBA 2019 Annual Conference



The NSBA Annual Conference and Exposition will be held March 30-April 1 in Philadelphia, Pennsylvania. Register online at www.nsba.org/conference.

TEACHER AND ADMINISTRATOR

EVALUATION, CONTRACT, AND NONRENEWAL DEADLINES

Note: Administrator is defined as principal, assistant superintendent, and associate superintendent. It excludes the superintendent. See reverse side for superintendent evaluations, contract, and nonrenewal deadlines.

EVALUATIONS OF TEACHERS AND ADMINISTRATORS	
First three years individual holds the position: Two evaluations must be made available on or before December 15 and April 15.	
Fourth year or more individual holds the position: One evaluation must be made available on or before April 15. <i>NDCC 15.1-15-01</i>	
TEACHERS AND ADMINISTRATOR CONTRACT ISSUANCE & RENEWAL	
Offering contracts to teachers and administrators currently employed	No earlier than March 1 and no later than May 1. Provide at least 14 calendar days to return contracts. <i>NDCC 15.1-15-04 (2)</i>
Offering contracts to newly hired teachers and administrators	No deadline in law. Give new hires a reasonable timeframe to consider offer and return the contract (e.g., 10 days).
Contract issuance during negotiations	Issuance suspended until negotiations are complete. <i>NDCC 15.1-15-04 (4)</i>
NONRENEWAL DEADLINES FOR TEACHERS AND ADMINISTRATORS	
Notice of contemplated nonrenewal	Must be in writing and no earlier than March 1 and no later than April 15. <i>NDCC 15.1-15-05 (1)</i>
Nonrenewal hearing deadline	No later than April 21. <i>NDCC 15.1-15-05 (1)(b)</i>
Notice of nonrenewal decision	In writing and no later than May 1. <i>NDCC 15.1-15-06 (10)</i>
EXCEPTIONS TO NONRENEWAL DEADLINES FOR FIRST-YEAR TEACHERS AND ADMINISTRATORS IN POSITIONS FOR LESS THAN TWO YEARS	
First-year teacher (an individual teaching for the first school year since obtaining a license to teach)	After April evaluation is complete, the board meets with the teacher in executive session to discuss reason for contemplated nonrenewal. Notice of Nonrenewal must be provided no earlier than April 15 and no later than May 1. <i>NDCC 15.1-15-02 (4)</i>
Administrators employed in that position by a district for less than two years	Provide written notice of nonrenewal decision before May 1. Board shall meet with administrator in executive session to convey reasons for nonrenewal if requested. <i>NDCC 15.1-15-05.1(1)</i>

SUPERINTENDENT

EVALUATION, CONTRACT, AND NONRENEWAL DEADLINES

SUPERINTENDENT EVALUATIONS	
<i>NDCC 15.1-14-03 (1)</i> requires that each school board conduct two evaluations:	
<ul style="list-style-type: none"> ● On or before November 15 ● On or before March 15 	
SUPERINTENDENT CONTRACT ISSUANCE & RENEWAL	
Contract duration	No more than three years. <i>NDCC 15.1-09-33 (25)</i>
Renewal deadline	Automatically renews for one year unless board provides notice of contemplated nonrenewal on or before April 15 or superintendent provides written resignation on or before June 1. <i>NDCC 15.1-14-11</i>
Offering contract to newly hired superintendent	No deadline in law. Ensure contract of former superintendent has been terminated before issuance. Give new hire a reasonable timeframe to consider offer and return a contract.
NONRENEWAL DEADLINES FOR SUPERINTENDENT WITH A DISTRICT LESS THAN TWO YEARS (count only years employed as superintendent)	
Notice of nonrenewal	Provide written notice of nonrenewal decision before May 1. Board shall meet with superintendent in executive session to convey reason for nonrenewal if requested. <i>NDCC 15.1-14-12 (1)</i>
NONRENEWAL DEADLINES FOR SUPERINTENDENT WITH A DISTRICT TWO OR MORE YEARS	
Notice of contemplated nonrenewal	In writing and on or before April 15. <i>NDCC 15.1-14-09 (1)</i>
Nonrenewal hearing deadline	On or before April 21. <i>NDCC 15.1-14-09 (1)(b)</i>
Notice of nonrenewal decision	In writing and no later than May 1. <i>NDCC 15.1-14-10 (8)</i>
Questions? Contact NDSBA at 800-932-8791	



2019 School Board Election Deadlines Example

Annual school board elections must be held between **April 1 and June 30** (NDCC 15.1-09-22). **NDSBA is using June 11, 2019, as an EXAMPLE election date.** **If you have a different election date, compute your schedule in accordance with state law cited below.** If your school board election is held in conjunction with a county election, the county election board should administer the election in the same manner as the county or state election. (NDCC 15.1-09-13 (4))

MARCH							APRIL							MAY							JUNE						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
					1	2		1	2	3	4	5	6				1	2	3	4							1
3	4	5	6	7	8	9	7	8	9	10	11	12	13	5	6	7	8	9	10	11	2	3	4	5	6	7	8
10	11	12	13	14	15	16	14	15	16	17	18	19	20	12	13	14	15	16	17	18	9	10	11	12	13	14	15
17	18	19	20	21	22	23	21	22	23	24	25	26	27	19	20	21	22	23	24	25	16	17	18	19	20	21	22
24	25	26	27	28	29	30	28	29	30					26	27	28	29	30	31		23	24	25	26	27	28	29
31																					30						

March 8, 2019 - 94 days before the election

30 days before the deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the city or county. (NDCC 15.1-09-09)

April 8, 2019 - 64 days before the election

An individual seeking election to the board of a school district shall prepare and sign a document (Statement of Intent) stating the individual's name and the position for which that individual is a candidate. A candidate shall also file a Statement of Interests as required by section 16.1-09-02. These documents must be filed with the school district business manager or mailed to and in the possession of the business manager by 4:00 p.m. **on the 64th day before** the election. (NDCC 15.1-09-08)

Each board of a school district that enters into an agreement with the county (to share election expenses) must notify the county auditor in writing **at least 64 days before** the election of the offices to be filled at the election and any measures to appear on the ballot. (NDCC 15.1-09-24) NOTE: This deadline only applies to school districts holding the annual election in conjunction with a primary election and sharing election expenses with a county.

May 2, 2019 - 40 days before the election

At least 40 days before the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals who have indicated their intent to be candidates by meeting the provision in NDCC 15.1-09-08. (NDCC 15.1-09-11)

May 7, 2019 - 35 days before the election

At least 35 days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible. (NDCC 15.1-09-13 (1))

At least 35 days prior to the annual election, the board of each school district shall designate one or more polling places for each precinct. The board shall locate the polling places as conveniently as possible for the voters in the precinct. (NDCC 15.1-09-13 (2))

May 28, 2019 - 14 days before the election

At least fourteen days before the date of an annual or special school district election, the school board shall publish a notice in the official newspaper of the district stating the time and place of the election and the purpose of the vote. (NDCC 15.1-09-09)

June 11, 2019 - Election day

School Board Election

June 17, 2019 - 6 days after the election

On the sixth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election. (NDCC 15.1-09-17)

June 20, 2019 - 3 days after canvassing

Within three days after the canvass by the school board for a school district election, the business manager of the school district shall provide to each elected individual written notice of the individual's election and of the duty to take an affirmation or oath of office. (NDCC 15.1-09-17)

June 18-27, 2019 - 10 days after canvassing

Within ten days after the canvass by the school board, the business manager shall certify the individuals elected and their terms to the County Superintendent of Schools. (NDCC 15.1-09-17)

An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office **within ten days** after receiving notice of the election or appointment and before commencing duties. (NDCC 15.1-09-25)