



bulletin



NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

JANUARY 2021

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

Updates from the Capitol



The 67th Legislative Assembly of the State of North Dakota kicked off on January 5 with Governor Burgum's first State of the State address of his second term. In his address, the Governor spent time speaking to the continued challenges of the pandemic, opportunities for the state, and his desire for bold action and investments during the legislative session. He thanked school board members and other elected officials for their service during these tumultuous times.

A week later, the House and Senate Appropriations Committees were presented with an updated revenue forecast. The forecast predicted "rough sailing" early in the year but called for optimism overall. Oil tax revenue fell significantly during the pandemic and is currently sitting at more than \$875 million behind what was forecast for the 2019-21 budget cycle. However, analysts expect to see some recovery at the end of 2021. The forecast was pro-

vided by IHS Markit, a firm hired by the legislature. Their revenue predictions came in about 10 percent higher than the state's executive budget forecast. State fiscal analysts contribute the difference to the later completion date of IHS Markit's analysis, allowing them to factor in impacts like improved oil prices and the rollout of COVID-19 vaccines.

After an uptick in the total number of bills introduced the last two sessions, bills seem to be coming in at a slightly slower pace this session. There are only 551 bills and resolutions for consideration after the first week and a half of the session compared to last session's 664 at this time. However, with final bill deadlines for representatives and senators on January 18 and 25, respectively, we can expect that number to grow. The NDSBA team is busy tracking nearly 100 of those bills.

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

- A bill requiring adoption of a restraint and seclusion policy

- Bills relating to elimination of school district ending fund balance carry-forward limitations
- A bill that would allow virtual instruction to count toward the seat time requirement upon the approval of an application to the superintendent of public instruction
- A bill that would require party designations for candidates in a school board election
- Legislation that would increase the statutory cap for liability of political subdivisions
- A number of bills limiting property tax increases
- A bill that lays out a formula for transportation 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 67th Legislative Assembly at legis.nd.gov.

Business Manager Upcoming Winter Virtual Trainings



Registration is now open for the following ND School Business Manager Certification Program classes:

- Budget, Budget Forecasting, and School Accreditation (first-year students)
 - School Law for Business Managers (first-year students)
 - Business Manager's Role in Negotiations (second-year students)
 - Data-Driven Decision Making and Board Reporting (second-year students)
- Classes for first-year students will be

held virtually via Zoom on February 11 from 8:30 a.m. – 3:00 p.m. Second-year students will have virtual classes on February 10 from 1:30 – 7:00 p.m. Students interested in retaking a class for continuing education credit will receive a discounted rate and can earn up to 1.5 credits per class.

Business manager students can register and learn more about these classes by going to the NDSBMCP website at <http://ndsbmcp.org/> and clicking the **NEWS** tab at the top of the page or by calling the NDSBA office at 800-932-8791.

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. If you need more information on how to conduct a superintendent evaluation, join us for our Lunch & Learn webinar on this topic on February 17. Visit <http://ndsba.org/index.php/resources/lunchlearn/> to learn more and register for this free seminar.

Reminder – Negotiations Seminar Registration Open

Registration for the 2021 Virtual Negotiations Seminar is now open at www.ndsba.org. Registration costs increase on January 27, so register now!



Legal Spotlight

Recent Federal COVID-19 Relief Package and Status of FFCRA Leave

by Amy De Kok, NDSBA Legal Counsel

Just prior to the end of 2020, Congress passed and the President signed the *Coronavirus Response and Relief Supplemental Appropriations Act*, a \$900 billion pandemic relief bill. The Act is over 5,000 pages in length and contains more than what can be covered in one article. This article will summarize the additional funding made available to public schools to assist with COVID-related expenses, as well as the status of COVID-related employee paid leave as provided under the previous Families First Coronavirus Response Act (FFCRA).

Funding for Schools and K-12 Education

The Act contains \$82 billion in funding for K-12 schools and universities to be distributed to schools largely how funds were distributed under the CARES Act. As with the CARES Act, the new law provides discretionary education resources to state governors through the GEER fund and sends money to

state departments of education and school districts through the ESSER fund. Unlike the CARES Act, the new law includes a significant set aside for non-public schools. It also includes new reporting requirements for states and subgrantees that receive ESSER funds and provides for some changes and additions to the program's eligible uses (the uses remain very flexible).

The new GEER funding will be distributed to states as follows:

- 60% based on the relative population of individuals aged 5 through 24; and
- 40% based on the relative number of children counted under ESEA section 1124(c).

GEER funds may be used for:

- Emergency support to LEAs that the SEA deems have been most significantly impacted by the coronavirus to continue to provide educational services to students and to support the ongoing functionality of the LEA.
- Emergency support to institutions of higher education that the Governor determines have been most significantly impacted by the coronavirus to continue to provide educational services and support the ongoing functionality of the institution.
- Support to any other institution of higher education, LEA, or education-related entity within the state, including Indian Tribes and Tribal organizations, that the Governor deems essential for carrying out emergency education services to students for authorized activities described in section 313(d)(1) of the HEA; the provision of child care and early childhood education, social and emotional support; and the protection of education-related jobs.

Any remaining funds that have not been awarded or obligated within 1 year after the date of receipt of the funds must be returned to the Department of Education to be reallocated to the remaining states.

The Act also provides \$54.3 billion for the Elementary and Secondary School Emergency Relief (ESSER) fund. These funds will be allocated based on each state's proportional share of Title I Part A funding under ESEA. At least 90% of ESSER funding must be subgranted to LEAs based on their proportional share of Title I Part A funding. The allowable uses of the ESSER funds were expanded slightly in comparison to the CARES Act. In addition to the allowable uses under the CARES Act, the funds may also be used for:

- Addressing learning loss among students by:
 - Administering and using high quality assessments to assess students' academic progress and assist educators in meeting students' academic needs (including by differentiating instruction)
 - Implementing evidence-based activities to meet the needs of students
 - Providing information/assistance to parents and families on how to support students during distance education
 - Tracking student attendance and improving student engagement during distance education
- School facility repairs/improvements that help reduce risk of virus transmission and exposure to other environmental health hazards
- Inspection, testing, maintenance, repair, and replacement projects to improve the indoor air quality of school facilities

Status of FFCRA Leave

Under the FFCRA, the emergency paid sick leave and expanded FMLA leave provisions were set to expire on December 31, 2020. Many hoped that the paid leave requirements would be extended by the Act; however, these provisions were ultimately not extended, which means that employers are no longer *required* to provide paid leave under the FFCRA beyond December 31,

Continued on page 3

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EDITOR

Alexis Baxley

PUBLISHER

North Dakota School Boards Association
PO Box 7128
Bismarck, ND 58507-7128

TELEPHONE 1-800-932-8791

LOCAL (701)255-4127

FAX (701)258-7992

WEBSITE www.ndsba.org

TWITTER @ndsba

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Legal Spotlight

2020. The Act does extend through March 31, 2021, the refundable payroll tax credits available to certain private employers under the FFCRA for paid sick and family leave who voluntarily elect to continue to provide the paid leave to employees. The Act does not change the qualifying reasons for which employees may take leave, the caps on the amount of pay employees are entitled to receive, or the FFCRA's documentation requirements.

NDSBA recognizes that although the FFCRA leave is no longer required, the COVID pandemic is still ongoing and school districts are still dealing with employees needing to take COVID-related leave. In light of this reality, school districts must decide how they will deal with employee leave in this regard going forward. Many districts have decided to voluntarily extend the availability of FFCRA leave through the end of the current school year. Similar to under the FFCRA, the up to 80 hours of emergency paid sick leave (EPSL) would still only be available on a one-time basis and only for those



Harvey School District

Contact: Alexis Baxley
Phone: 701-255-4127
Email: alexis.baxley@ndsba.org
Application: www.ndsba.org
Deadline: February 1, 2021
Position Begins: July 1, 2021

Hatton Eielson School District

Contact: Dr. Paul Stremick
Website:
www.dakotaleadershipsolutions.com
Phone: 701-520-5963
Email: Paul.Stremick@outlook.com
Deadline: February 12, 2021
Position Begins: July 1, 2021

Park River Area School District

Contact: Dr. Paul Stremick
Website:
www.dakotaleadershipsolutions.com
Phone: 701-520-5963
Email: Paul.Stremick@outlook.com
Deadline: February 26, 2021
Position Begins: July 1, 2021

Continued from page 2

employees who did not take the leave during 2020. In other words, districts that elect to continue with the FFCRA leave should continue to provide it under the same terms and conditions as when it was required. NDSBA recommends that districts that adopted our template policy DDBE (Families First Coronavirus Response Act Leave) and that plan to voluntarily extend the leave, continue to use the policy as a guide in making decisions regarding COVID-related paid leave. NDSBA further recommends that districts consult with their district legal counsel to ensure the voluntary extension of the leave will not cause problems with the terms of the negotiated agreement relating to employer paid leave.

For districts that decide not to voluntarily extend the availability of FFCRA paid leave to their employees, we encourage you to proactively consider how you will deal with COVID-related employee leave, which will almost certainly remain an issue for the rest of the current school year. It is possible that other employer-provided paid leave will be able to be used in these situations; however, this will largely depend on the particular leave provisions and associated criteria. Again, NDSBA recommends that districts consult with their legal counsel on their available options.

(The above information is taken from the article entitled *Summary of the Education Provisions of the Coronavirus Response and Relief Supplemental Appropriates Act*, dated December 22, 2020, and written/issued by Foresight Law + Policy.)



Legislative Updates

Updates from the 2021 Legislative Session will be sent to NDSBA members weekly by email. If you have not been receiving emails from NDSBA, please call Julie at 800-932-8791 to ensure we have the correct email address on file.



Families First Coronavirus Response Act Leave Policy

The requirement that employers provide paid sick leave and expanded family and medical leave under the Families First Coronavirus Response Act (FFCRA) expired on Dec. 31, 2020. Districts that adopted NDSBA's policy DDBE, Families First Coronavirus Response Act Leave, and that do not plan to voluntarily continue to provide FFCRA leave, should promptly rescind this policy and remove the accompanying exhibit DDBE-E, Families First Coronavirus Response Act Leave Request Form. Rescinding a policy can be done by your board in one motion; no action is needed for the exhibit. Failure to do this in a timely manner means outdated policies in the district's policy manual and possible misinterpretation and confusion for employees.

Book Rooms for 2022 NDSBA Convention

NDSBA's 2022 Annual Convention will begin on Thursday, October 27, with the Law Seminar and New Member Seminar. Regular convention activities will begin that afternoon and conclude on Friday afternoon, October 28.

The Ramkota is taking room reservations for the 2022 Annual Convention NOW. Call the Ramkota at 701-258-7700 for room reservations. Secure your room early!



BoardBook Premier

BoardBook Premier is available to North Dakota school districts, political subdivisions, and businesses. BoardBook Premier is a paperless meeting and document storage program designed by school boards and is the new standard in board agenda preparation and decision making. Visit www.ndsba.org for more information.



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2021 NDSBA Negotiations Seminar
February 4-5, 2021 • Virtual

February Lunch & Learn
February 17, 2021
Virtual

March Lunch & Learn
March 17, 2021
Virtual

2021 NSBA Annual Conference
April 8-10, 2021 • Virtual

2021 NDSBA Annual Convention
October 28-29, 2021
Ramkota Hotel, Bismarck



State Mileage Rate Changes

As of January 1, 2021, state rate for mileage reimbursement is \$0.56 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 1/1/2021.

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



NDSBA is Now on Twitter!

Follow us on Twitter at @**ndschoollboards** for event, policy, and other education-related updates.



2021 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 8, 2021, 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	3	4	5	6					1	2	3							1			1	2	3	4	5
7	8	9	10	11	12	13	4	5	6	7	8	9	10	2	3	4	5	6	7	8	6	7	8	9	10	11	12
14	15	16	17	18	19	20	11	12	13	14	15	16	17	9	10	11	12	13	14	15	13	14	15	16	17	18	19
21	22	23	24	25	26	27	18	19	20	21	22	23	24	16	17	18	19	20	21	22	20	21	22	23	24	25	26
28	29	30	31				25	26	27	28	29	30		23	24	25	26	27	28	29	27	28	29	30			
														30	31												

March 6, 2021 - 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 5, 2021 - 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, 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.

April 29, 2021 - 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 4, 2021 - 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 25, 2021 - 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 8, 2021 - Election day

School Board Election

June 14, 2021 - 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 17, 2021 - 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 14-24, 2021 - 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)

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 conducted on or before December 15 and April 15.	
Fourth year or more individual holds the position: One evaluation must be conducted on or before April 15. NDCC 15.1-15-01(2)	
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. NDCC 15.1-15-04(2)
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. NDCC 15.1-15-04(4)
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. NDCC 15.1-15-05(1)
Nonrenewal hearing deadline	No later than April 21. NDCC 15.1-15-05(1)(b)
Notice of nonrenewal decision	In writing and no later than May 1. NDCC 15.1-15-06(10)
EXCEPTIONS TO NONRENEWAL DEADLINES FOR PROBATIONARY TEACHERS AND ADMINISTRATORS IN POSITIONS FOR LESS THAN TWO YEARS	
Probationary teacher (an individual teaching in your district for less than two years)	After April evaluation is complete, the board meets with the teacher in executive session to discuss reasons for contemplated nonrenewal. Notice of Nonrenewal must be provided no earlier than April 15 and no later than May 1. NDCC 15.1-15-02(4)
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. NDCC 15.1-15-05.1(1)

SUPERINTENDENT

EVALUATION, CONTRACT, AND NONRENEWAL DEADLINES

SUPERINTENDENT EVALUATIONS	
NDCC 15.1-14-03(1) 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. NDCC 15.1-09-33(25)
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. NDCC 15.1-14-11
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 (e.g., 10 days).
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. NDCC 15.1-14-12(1)
NONRENEWAL DEADLINES FOR SUPERINTENDENT WITH A DISTRICT TWO OR MORE YEARS	
Notice of contemplated nonrenewal	In writing and on or before April 15. NDCC 15.1-14-09(1)
Nonrenewal hearing deadline	On or before April 21. NDCC 15.1-14-09(1)(b)
Notice of nonrenewal decision	In writing and no later than May 1. NDCC 15.1-14-10(8)
Questions? Contact NDSBA at 800-932-8791	