

FINAL DRAFT

OF THE REPORT TO  
Governor John Hoeven and the  
North Dakota Interim Legislative Committee  
On Education Finance and the  
North Dakota Legislative Assembly  
Responding to Executive Order 2006-01

FROM THE NORTH DAKOTA COMMISSION  
ON EDUCATION IMPROVEMENT

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## INTRODUCTION

On December 16, 2003, an amended complaint was filed by nine North Dakota school districts requesting that the state's public school finance system be declared unconstitutional. The nine plaintiff districts are Williston, Grafton, Devils Lake, Valley City, United, Surrey, Hatton, Thompson and Larimore. The state has denied and continues to deny the plaintiffs' claims.

On January 10, 2006, the parties in opposition determined that it was desirable for them to stay the action and provide the North Dakota Legislative Assembly with the opportunity to settle, compromise, and resolve this action on certain terms and conditions. Consequently, the parties executed an "Agreement to Stay Litigation". The document is attached as Exhibit A.

The first condition accepted by both parties is that the Governor issue an Executive Order creating a North Dakota Commission on Education Improvement. The document is attached as Exhibit B. The Commission members include the Governor, the Superintendent of Public Instruction, four school district administrators, and four legislators. The Commission also includes three non-voting members representing the state's teachers, school boards, and school administrators.

The Commission was instructed to prepare a report that recommends ways to improve the current system of delivering and financing elementary and secondary education, including the equitable distribution of state education dollars and the adequacy of state education dollars. The report and subsequent reports are intended to provide the basis for

proposed legislation to be put before the Legislative Assembly for consideration in both the 2007 and 2009 Sessions.

The second condition accepted by both parties is that the Executive Budget for the 2007 legislative session include at least an additional \$60 million for elementary and secondary education over the amount appropriated by the 2005 Legislative Assembly. A table of baseline appropriations for elementary and secondary education programs, as agreed to by the Commission, is found on page 12. The amount appropriated by the 2005 Legislative Assembly for education programs is \$675,583,095. Therefore, the 2007 Legislative Assembly will be asked to consider legislation that appropriates at least \$735,583,095 for elementary and secondary education during the 2007-2009 biennium, and which also contains substantial improvements in the equitable distribution of those dollars. If the 2007 Legislative Assembly appropriates at least \$60,000,000 in new state funds, and if the Legislative Assembly adopts the Commission on Education Improvement as a vehicle for achieving further improvements in school finance, then the plaintiffs have agreed to dismiss their lawsuit against the State and not initiate any other lawsuit until after the completion of the 2009 legislative session.

It is envisioned that the question of school funding adequacy will continue to be addressed by the Commission during the 2007-2008 interim and that additional recommendations will be made to the 2009 Legislative Assembly. The combined recommendations of the Commission for the 2007 Legislative Session represent a transition plan in which the issue of equity in North Dakota school funding is laid to rest and the system of school finance is prepared for what is expected to be another increase in state

funds again in the 2009 Legislative Session that are dedicated almost entirely to state aid payments. During the 2007-2008 interim, the Commission is expected to focus on the question of adequacy and make further recommendations to be examined by the 2009 Legislative Assembly.

This report contains the Commission's recommendations on how to improve the current system of funding public education in North Dakota. The Commission did not, therefore, focus on issues of general education policy, such as governance, school district size, and the general prioritization of education programs, unless those issues were found to have had a direct impact on either equity or adequacy. The policy recommendations made by the Commission should not be construed as legal requirements.

## EXECUTIVE SUMMARY

### Background

On January 10, 2006, the plaintiff districts and the State agreed to a “Stay of Litigation” based on two conditions: one, the Governor would form a Commission comprised of the Governor, the Superintendent of Public Instruction, four school district administrators, and four legislators to make recommendations to improve the equity and adequacy of school funding; and two, the Governor would include at least \$60,000,000 in new State funds in his Executive Budget. Litigation will not be re-initiated, if ever, until 2009 if the Legislature appropriates at least \$60,000,000 and adopts the Commission as a vehicle for achieving further improvements.

### Main Formula

The Commission recommends that a comprehensive formula including all State funds and all appropriate cost adjustments be developed based on the current method of distribution, which is the per student payment.

Payments would include all funds previously distributed as Foundation Aid, teacher compensation, tuition apportionment, special education ADM payments, supplemental payments, and all new State funds appropriated for per student payments.

Per student payments should be adjusted by using weighting factors that reflect all added costs of current programs provided by state law and the added cost of operating smaller schools. The \$60,000,000 in new State funds should be distributed under this new formula.

The base payment should be adjusted for school districts that have taxable valuations per student more than 150 percent of the state average (total excess valuation times 185 mills).

The base payment should be adjusted if the local taxing effort is well below the statewide average (mills below 170 times total taxable valuation).

The state aid for each new weighted student unit should be no less than 102% of the state aid per new weighted student unit allocated in the previous year. For each year thereafter, the state aid per weighted student unit should not decline from 102% of the baseline.

The state aid for each new weighted student unit should not exceed 107% of the state aid per new weighted student unit allocated in the previous year, excluding any equity payment. For each year thereafter, the allowable increase in state aid per weighted student unit over the baseline year should be adjusted by an additional two percentage points each year.

### **Main Formula – School Size Weighting Factor**

Each school district should have a single weighting factor that reflects the relative cost of education for that district. This is important because this factor should be applied to the Weighted Average Daily Membership which is weighted by all of the other factors that add cost to educating a typical student as proposed in the new main formula. This recommendation is based on the understanding that all programs listed on the “Illustration for new Main Formula” are more costly to deliver in a smaller school district because of the inherent loss of efficiency in a smaller school.

## **Equity Payment**

The mill levy deduct should be discontinued because it is viewed by many people as a “tax” on wealthier districts and because it is unlikely to ever receive the necessary political support for it to be the principle means of providing an equitable system of education funding.

The Supplemental Payment Plan should be replaced with an Equity Payment Plan. Such a plan would offset the loss of revenues suffered by any school district whose imputed taxable valuation per student is below 90 percent of the statewide average imputed valuation per student by paying out the revenue lost due to their deficiency in imputed taxable valuation.

Calculations made to determine the equity payment should include mineral income and unrestricted tuition income by imputing these categories of cash revenue into an Imputed Taxable Valuation, which is the taxable valuation of real property plus a theoretical valuation created by dividing 75 percent of the district’s other cash revenue from minerals and tuition by the property tax rate of the district.

Adjustments should be made to the equity payment to encourage local taxing effort, but there should be an assumed minimum tax base.

## **Special Education**

The Commission recommends that the Legislature merge special education per student payments with general education per student payments, and raise the special education percentage over time. The special education weighting factor should be set to provide \$3 million in new State funds under an ADM distribution.

The Commission recommends that the Legislature guarantee the excess costs incurred by school districts in serving the 1% most costly students in the special education population. Overall, the Commission recommends an increase of \$1,000,000 in State funds for the contract side of special education funding.

The commission recommends that the Legislature reduce the number of special education units in the state.

### **Capital Improvement Equity**

The current needs-based evaluation system for school districts contemplating a remodeling, expansion or new construction should be used with new equity criteria to determine eligibility for low interest loan funds.

The Commission makes no specific recommendation for requiring a minimum school district size in North Dakota at this time. This should be addressed by the Commission and the Legislative Assembly in time for the 2009 Legislative Session. However, a Capital Improvement Assistance Program is needed for two or more school districts that are considering reorganization and are willing to plan together the future capital spending that will be required by their merged future. Significant financial incentives should be offered.

### **Career and Technical Education**

The Commission recommends that the Legislature target \$1,300,000 for incentives for Area Career and Technology Education centers and other cooperative service delivery techniques for CTE programs.

The Legislature should provide \$1,200,000 in pilot program funding to the State Board to defray the start-up costs of two new Area CTE centers.

### **Joint Powers Agreements (JPAs)**

The Commission strongly recommends the continued development of JPAs as a tool to provide equitable and adequate education services in the environment of declining enrollment.

Specifically, the Commission recommends that the General Fund appropriation for JPAs be increased by \$1,000,000 and that JPAs once again be eligible for \$1,000,000 in contingency funds from surplus State Aid.

### **Transition to Adequacy**

The combined recommendations of the Commission for the 2007 Legislative Session represent a transition plan in which the issue of equity in North Dakota school funding is laid to rest and the system of school finance is prepared for a significant infusion of state funds again in the 2009 Legislative Session that are dedicated almost entirely to adequacy, i.e. increased per student payments.



- 12) Weighted Student Units      The student payment units determined by multiplying the weighted ADM by the school district size weighting factor.
- 13) Weighting Factor              The amount that is added to the base factor of 1.00 and which reflects the added cost of educating a student in each of several categories.

## **K-12 EDUCATION MAIN FUNDING FORMULA**

### **Background:**

In the late 1950s, the North Dakota Legislative Assembly initiated a foundation aid program to provide a uniform per student payment to school districts. At the outset, the program's weighting factors only reflected varying costs stemming from school district size and grade levels.

Over the course of numerous legislative sessions, other programs layered additional dollars on top of the per student payments. These programs included supplemental equity; special education; early childhood special education; summer school; migrant summer school; English language learners; extended school year; home education; alternative high schools; small and isolated schools; out-of-state reciprocity; teacher compensation payments; technology incentive programs; grants to educational associations governed by joint powers agreements; career and technical education; and grants for transportation.

### **Principles for Change:**

- 1) The proliferation of programs has created a lack of simplicity and transparency, thereby making it difficult to understand how much financial support is actually being given to each school district. A new comprehensive formula will provide this simplicity and transparency. The per student payment is still the best method for distributing state aid and for ensuring that the state aid follows each student. As public education evolves and students become more mobile due to open enrollment, alternative programs, and mid-year relocations, a distribution system

- whereby the Weighted ADM follows the student is most flexible and best suited to accommodate future changes.
- 2) The per student payment should be adjusted by adding weighting factors that reflect all added costs, including the types of students and the requirements for each program.
  - 3) School size weighting factors should be included in the formula to account for the increased cost of operating smaller and often less efficient schools.
  - 4) By distributing a greater proportion of state dollars through a cost-adjusted or “weighted” payment system, greater equity can be achieved.
  - 5) School districts with general fund levies that are well below the state average should have their state distribution reduced to encourage local taxing efforts that are both adequate and equitable. This is best accomplished by means of a Minimum Mill Levy Offset.
  - 6) School districts that have per student taxable valuations well in excess of the state average should have their state distribution reduced to narrow the disparity among the state’s districts. Unlike the mill levy deduct, which reduces payments with the first dollar of excess valuation, the High Valuation Offset affects only districts that enjoy student valuations well above the state average.
  - 7) Minimum and maximum allowable growth totals in state distributions should be established for all districts in order to provide a gradual transition to higher payment levels anticipated during the 2009-2011 biennium.

- 8) Any new funding formula should allow school districts as much discretion as possible with respect to delivering education.

**BASELINE STATE FUNDS APPROPRIATED FOR K-12 EDUCATION PROGRAMS**

Biennium	Foundation		Teacher Payments	Tuition Apportionment	Supplemental Payments	Special Education	JPA Payments	Career and Technical Education	Total
	Aid Per Student								
1991-93	\$344,707,785		\$0	\$47,225,456	\$0	\$29,164,376	\$0	\$7,553,960	\$428,651,577
1993-95	360,919,892		0	46,017,000	0	33,500,000	0	7,490,845	447,927,737
1995-97	396,506,035		0	46,017,000	2,225,000	36,850,000	0	7,155,620	488,753,655
1997-99	429,587,939		0	49,273,144	3,100,000	40,550,000	0	7,700,506	530,211,589
1999-2001	443,006,259		0	53,528,217	3,100,000	46,600,000	0	8,570,234	554,804,710
2001-03	437,971,648		35,036,000	67,239,025	2,200,000	49,898,695	0	9,355,328	601,700,696
2003-05	454,579,990	<sup>1</sup>	51,854,000	69,495,371	5,000,000	49,898,695	0	9,473,009	640,301,065
2005-07	484,053,759	<sup>1</sup>	50,912,120	71,600,000	5,000,000	52,500,000	1,000,000	10,517,216	675,583,095

**COMMISSION ON EDUCATION IMPROVEMENT RECOMMENDATION**

	Formula Payments		Special Education Contract Payments	JPA Payments	Career and Technical Education	Total
2007-09	\$704,565,879	1,2	\$16,500,000	\$2,000,000	\$12,517,216	\$735,583,095

<sup>1</sup> Appropriation includes a contingent distribution for educational associations (JPAs) if unspent foundation aid monies are available at the end of the biennium: \$250,000 in 2003-05, \$1 million in 2005-07, \$1 million proposed in 2007-09

<sup>2</sup> Refer to Exhibit C for detailed accounting.

**Recommendations:**

The average annual per student payment is determined by dividing the total dollars available in the biennium for per student payments (\$667,065,870) by two and then dividing the results by the number of weighted student units statewide (109,652). For each year of the 2007-2009 biennium, the per student payment is estimated to be \$3,042. The total dollars available for per student payments includes all formula payments except the new equity payments. See Exhibit 3 for a detailed accounting.

The base per student payment includes several categories of funding that previously were separate programs. Teacher compensation payments will be included in the per student payments because the original purpose, which was to increase teacher salaries statewide in the 2001-2003 biennium, now no longer provides this incentive. When the Governor proposed to increase teacher payments again in the 2003-2005 biennium, this program was rejected by the Legislative Assembly in favor of a provision requiring that 70 percent of new state dollars received by a district be set aside for teacher compensation increases. The Commission supports the current provisions regarding 70 percent of new state dollars from per student payments being earmarked for increases in teacher compensation. At this time, the per teacher payment represents less than 10 percent of distributions with no incentive value due to the static level of the payments, so it is only logical to consolidate this payment into the new comprehensive formula.

The base per student payment also includes dollars that were previously distributed as tuition apportionment payments. After conducting a legal analysis, the Commission determined that the Legislative Assembly has the authority to distribute tuition

apportionment dollars in a manner that it deems fair and reasonable for the benefit of North Dakota's children. The Commission therefore recommends that the Legislative Assembly make these distributions on the basis of the new comprehensive funding formula in order to achieve the greatest equity possible. This recommendation assumes that the Legislative Assembly will use these funds solely for children attending public schools.

The base per student payment also includes dollars that were previously distributed as separate special education payments on an ADM basis. The Commission has determined that these payments should be merged with the general education dollars distributed under the main formula. The amount provided is the result of multiplying the estimated weighting factor of .067 times the base ADM of all school districts and then multiplying that result by the per student payment in order to arrive at the desired appropriation. The target of \$40,000,000, including \$400,000 for Gifted and Talented programs, represents an increase of \$3,000,000 over the amount appropriated for the 2005-2007 biennium.

All of these sources of funds from other programs, taken together with prior per student funds and growth in per student funds (net of adjustments), constitute the new per student dollars of approximately \$667,000,000.

Before reading the explanation of the new formula, refer to page 11 for definitions of the terminology used. Also, follow the number key in the "Illustration for New Main Funding Formula" on page 19.

**Illustration for New Main Funding Formula**  
**Prepared for the ND Commission on Education Improvement**  
*(Based on Grafton School District Prior Year Data Rounded)*

<u>Key</u>	<u>Description</u>	<u>ADM</u>	<u>Weighting Factor</u>	<u>Weighted ADM</u>
1	Grades 1-12 ADM (based on prior year-end)	828.00	1.00	828.00
2	Kindergarten ADM	60.00	.50	30.00
3	PK Special Ed ADM	24.00	1.00	24.00
4	Base ADM			882.00
5	Special Ed ADM (non-contract)	882.00	0.067	59.09
6	PK Special Ed ADM	24.00	0.17	4.08
7	English Language Learners (Levels 1 & 2)	20.00	0.23	4.60
8	Special Ed ESY	10.00	1.00	10.00
9	Alternative High School	0.00	0.25	0.00
10	Summer School	16.00	0.60	9.60
11	Migrant Summer School	50.00	1.00	50.00
12	Home-Schooled (Supervision)	6.00	0.50	3.00
13	At risk – Poverty (illustration)	20.00	0.00	0.00
14	At risk academically – low percentile in AYP (illustration)	20.00	0.00	0.00
15a	Small Isolated (Additional ADM for minimum)	0.00	1.00	0.00
15b	Small Isolated (Cost factor on actual and phantom)	0.00	0.25	0.00
16	Out-of-State Reciprocity	0.00	0.20	0.00
17	Weighted ADM Total			1,022.37
18	School Size Weighting Factor		x	1.01
	Weighted Student Units			1,032.59
19	Per Student Payment		x	\$3,042
20	Total State Aid Payment (Minimum of 2% growth and maximum of 7%)			\$3,141,139
21	170 Minimum Mill Levy Offset			0
22	High Valuation Offset			0

**Key #1 – Grades 1-12 ADM**

Use the prior year's closing ADM, Average Daily Membership for Grades 1-12, as the basis for the formula.

**Key #2 – Kindergarten ADM**

Multiply the number of kindergarten students by .50 to reflect the current state policy of funding half-day kindergarten only.

**Key #3 – Early Childhood Special Education ADM**

Determine the number of early childhood special education students who attend classes at least 10 hours per week.

**Key #4 – Base ADM**

Add the results from Key #1, #2, and #3. This is the "Base ADM."

**Key #5 –Special Education Factor**

Multiply the Base ADM by .067 to reflect dollars that are distributed to school districts as per student special education dollars.

**Key #6 –Early Childhood Special Education Factor**

Multiply the number of early childhood special education students by .17 to reflect the additional cost of educating these students.

**Key #7 – English Language Learners Factor**

Multiply the number of English Language Learners at levels I and II by .23 to reflect the added cost of educating these students. If the funds required for levels I and II are less than \$650,000, the remaining funds would be made available for level III and level IV students.

**Key #8 – Special Education Extended School Year Factor**

Multiply the number of special education students who are enrolled in extended school year programs by 1.00 to reflect the cost of educating these students.

**Key #9 – Alternative High School Factor**

Multiply the number of full time equivalent students enrolled in an Alternative High School by .25 to reflect the current state policy of recognizing alternative high schools as separate small schools with their own weighting factors.

**Key #10 – Summer School Factor**

Multiply the number of full time equivalent students enrolled in regular summer school programs by .60 to reflect the cost of educating these students.

**Key #11 – Migrant Summer School Factor**

Multiply the number of full time equivalent students enrolled in migrant summer school programs by 1.00 to reflect the cost of educating these students.

**Key #12 – Home Education Factor**

Multiply the number of home educated students that receive school district supervision by .50 to reflect the current cost of supervising these students.

**Key #13 – At Risk Poverty Factor**

Multiply the number of students who are considered “At Risk” due to the effects of poverty by .00 to reflect the added cost of educating these students. (Illustration only).

**Key #14 – At Risk Academically Factor**

Multiply the number of students who test below the 5<sup>th</sup> percentile in Reading or Math in the latest AYP assessment by .00 to reflect the added cost of educating these students. (Illustration only).

**Key #15a – Small Isolated (Phantom Students Factor)**

Include the number of “phantom” students allowed under the state’s definition of small and isolated schools.

**Key #15b – Small Isolated Cost Factor**

Multiply the number of actual and phantom students in a small and isolated school district by .25 to reflect the dollars that are currently provided under state law for these students.

**Key #16 – Out-of-State Reciprocity Factor**

Multiply the number of students who are educated in another state under a reciprocity agreement by .20 to reflect the dollars that are currently distributed to subsidize these students.

**Key #17 – Weighted ADM**

Add the results from steps 1-16 to determine the school district’s “weighted ADM”.

**Key #18 – Weighted Student Units**

Multiply the weighted ADM by the school size weighting factor to determine the school district’s weighted student units. A table of new school district size weighting factors can be found on page 28.

**Key #19 – Per Student Payment**

Divide the available dollars by the weighted student units to determine the per student payment.

**Key #20 – Total Formula Payment (Minimum and maximum growth rate)**

The total formula payment is the weighted student units (line 18) multiplied by the per student payment (line 19). For the purpose of determining a minimum and maximum distribution of state dollars, the amount allowed for consideration is the sum of all state dollars distributed to a school district through the Department of Public Instruction, except amounts for transportation, excess cost reimbursement, educational associations governed by JPAs, prior year education funding adjustments, and special education contract dollars.

In order to calculate a minimum and maximum payment to school districts, it is necessary to establish a baseline dollar amount per weighted student unit from which increases can be calculated. This “baseline funding per weighted student unit” will be the formula state aid payments to the district for the 2006-2007 school year divided by the weighted student units developed under the new formula for the 2007-2008 school year.

For the 2007-2008 school year, the formula distribution per weighted student unit for a district may be no less than 102 percent of the baseline funding per weighted student unit (including any equity payment). For the 2008-2009 school year, and each year thereafter, the formula state aid per weighted student unit (including any equity payment) may not be less than 102 percent of the baseline funding per weighted student unit. It is anticipated that the per student payment will increase approximately \$40 - \$100 from the first year to the second year of the biennium.

For the 2007-2008 school year, the maximum allowable payment in formula distribution per weighted student unit under the new formula (not including any equity payment) is 107 percent of the baseline funding per weighted student unit. For the 2008-2009 school year, the maximum allowable payment in formula state aid per weighted student unit (not including any equity payment) is 109 percent of the baseline funding per weighted student unit. For ensuing years, assuming the formula is not changed, the maximum allowable formula distribution per weighted student unit should be allowed to increase by two percentage points each year.

**Key #21 – 170 Minimum Mill Levy Offset**

Any school district having a general fund levy that is less than 170 mills should have its state aid payment reduced. The reduction should equal the number of mills below 170 multiplied by the total taxable valuation of the school district.

**Key #22 – High Valuation Offset**

In the absence of the traditional mill levy deduct, a new factor is needed to provide equalization where the imputed taxable valuation per student is well above the state average imputed taxable valuation per student. The principle here is that school districts should be allowed to enjoy some benefit from their inherent property wealth and not suffer deductions from the first dollar of excess property value. However, at some level there needs to be an offset for excess valuation per student. The Commission recommends that the High Valuation Offset be effective for imputed valuations per student in excess of 150 percent of the state average imputed valuation per student. The reduction should equal the district's total excess imputed taxable valuation, which is the amount of valuation over 150 percent of the state average, multiplied by 185 mills.

**Legislation Required**

- 1) Revise sections relating to determining ADM, weighting factors, payments for early childhood special education, special education distributions, English language learners, extended school year programs, payments to alternative high schools, payments for summer school, payments for migrant summer school, and the supervision of home educated students.
- 2) Revise the section regarding state aid to education.

- 3) Eliminate the requirement for completing the teacher compensation claim form.
- 4) Revise the section regarding tuition apportionment to reflect the revised distribution methodology.
- 5) Eliminate the requirement for a school census.
- 6) Adopt a new section to require a reduction in state funding for low taxing effort, i.e. mill levies below 170 mills.
- 7) Adopt a new section requiring an offset to the main formula payment for high valuation districts that have an imputed taxable valuation per student more than 150 percent of the state average.

Require that the Commission on Education Improvement continue to study improvements in the funding of K-12 education, including equity and adequacy, during the 2007-09 interim and report to an interim committee selected by the Legislative Council.

**K-12 EDUCATION**  
**MAIN FUNDING FORMULA**  
**SCHOOL DISTRICT SIZE WEIGHTING FACTOR**

**Background**

Since the inception of the foundation aid program, the Legislative Assembly has used weighting factors to adjust state aid to account for the cost variances of operating a small school versus a large school. These weighting factors were in statute and addressed grade levels and school size.

As time passed, it became a challenge to statutorily adjust the weighting factors so that the changing costs of providing education could be accurately reflected. Each factor had developed a constituency that opposed any changes. Finally, Governor George Sinner proposed using the actual five-year average cost of education for each grade and size category as a fair method of adjusting weighting factors. Although the proposal was not initially adopted, it gradually was blended together with the old factors until, for the 2004-2005 school year, school districts arrived at 100 percent of the five-year average cost of education as the basis for each weighting factor.

Recent efforts have reduced the number of factor categories. Distortion continued to exist because the term “cost” is defined by the Superintendent of Public Instruction as the amount of spending per student actually taking place. In certain categories, high spending school districts with ample resources were adding to the so-called “cost” of education.

**Principles for Change**

- 1) In order to achieve a system of weighting factors that reflects the true cost of education by school district size, the pool of peer school districts must be large

enough to establish an accurate average “cost” of education based on actual five-year data and thereby eliminate distortions.

- 2) Each school district should have a single school size weighting factor that reflects the relative cost of education for that district. This factor should be applied to the district’s average daily membership, which is weighted by all of the other cost factors. This recommendation is based on the understanding that all programs listed in the “Illustration for New Main Formula” (page 19) are more costly to deliver in a smaller school district because of the inherent loss of efficiency.
- 3) A single weighting factor will replace four separate weighting factors for a K-12 district and two or three weighting factors for a K-6 or K-8 district. Each district’s initial composite factor should place it in an appropriate peer group in the case of small or large school districts. The factor for a medium size school district should be determined using a cost continuum that ranges from 1.00 to 1.25.
- 4) Categories within the medium size group should reflect actual shifts in costs within the group. Trends, rather than individual district figures, should be the main determinant of the step factors.
- 5) The effect of moving from one step factor to another should be minimized by making the step differences small and frequent.
- 6) The only reason to change the weighting factor system over time would be to reflect changing trends in the relative costs of delivering education. These potential trends can be monitored over time by the Department of Public Instruction personnel.

**Recommendations**

- 1) The weighting factors for all school districts should be established according to the following table:

**K-12 Weighting Factors by School District Size Category**

A district with Base ADM equal to or greater than:	AND	With ADM less than	FACTOR
0		185	1.25
185		200	1.24
200		215	1.23
215		230	1.22
230		245	1.21
245		260	1.20
260		270	1.19
270		275	1.18
275		280	1.17
280		285	1.16
285		290	1.15
290		295	1.14
295		300	1.13
300		305	1.12
305		310	1.11
310		320	1.10
320		335	1.09
335		350	1.08
350		360	1.07
360		370	1.06
370		380	1.05
380		390	1.04
390		400	1.03
400		600	1.02
600		900	1.01
900		No limit	1.00

**K-6 and K-8 Weighting Factors by School District Size Category**

A district with Base ADM equal to or greater than:	AND	With ADM less than	FACTOR
0		125	1.25
125		200	1.17
200		No limit	1.00

- 2) The weighted student unit calculation for each school district should be for the best case result and a guarantee should be provided that the weighted student units are no less than that provided by the highest possible number of ADM in the next category with a lower weighting factor.
- 3) After the reorganization of two or more school districts, the newly created district should receive for the ensuing four school years, the school size weighting factor that the participating districts would have received had they not reorganized. In the fifth year following reorganization, the newly created district should receive the former weighting factors less  $1/3$  of the difference from its new weighting factor. In the sixth year following reorganization, the newly created district should receive the former weighting factors less  $2/3$  of the difference from its new weighting factor. In the seventh year following reorganization, the weighting factor should be established according to the table. For simplicity, the Superintendent of Public Instruction should assign a blended weighting factor at the time of reorganization computed to four decimal places, and use that factor throughout the transition years.

### **Legislation Required**

- 1) Create a new section establishing the weighting factors for school size.
- 2) Repeal all sections addressing current weighting factors.
- 3) Create a new section establishing a phase-in period for school districts that have reorganized.

## EQUITY PAYMENT

### Background:

North Dakota lawmakers have long recognized that disparities exist among the state's school districts in the financial resources available to deliver an education program. The "mill levy deduct" provision was enacted in the 1960s as a first attempt to redirect some state funds from property rich districts to property poor districts. The program has had limited support over a long period of years, primarily because approximately half of all school districts were being asked to contribute a portion of their pro rata share of state financial support to less fortunate school districts. Another weakness has been the fact that mill levies and taxable valuations generally have risen at a faster rate than the mill levy deduct has risen. In other words, the amount of wealth equalization achieved in relation to the amount intended has actually declined over time. Recently, an automatic escalator was enacted. It required an increase of 3 mills per year in the deduct. At that rate, it would take fifty years to equalize the state average General Fund levy of 190 mills. Balancing the amount of funds available among school districts has been an ongoing goal of the Legislative Assembly, although it is not legally required.

In 1995, another equity measure was enacted to provide additional state support to the most needy school districts. This supplemental payment plan provided a payment to any school district that was below the state average valuation per student and below the state average in spending per student. In order to recognize local taxing effort, the formula was based on deficient valuation multiplied by actual mills levied over 150. This plan would have effectively targeted the most needy school districts, but it had certain weaknesses. Less than

half of the dollars needed to fully fund this formula were actually appropriated. In addition, the formula recognized only a portion of the mills actually levied. (Out of 210 mills, only 60 mills are used in the computation.) Furthermore, spending per student is used as a measure of additional wealth. However, some rich districts spend less and some poor districts spend more than the state average per student. Finally, under the formula, only 23 school districts, or just over 10 percent of the total number of school districts, were entitled to receive dollars.

**Principles for Change:**

- 1) The mill levy deduct should be discontinued because it is viewed by many people as a “tax” on wealthier districts and because it is unlikely to ever receive the political support necessary for it to be the principle means of providing an equitable system of education funding.
- 2) The supplemental payment plan should be replaced with an equity payment plan that would offset the loss of revenues suffered by any school district whose imputed taxable valuation per student is less than 90 percent of the state average imputed valuation per student, by paying out the revenue lost due to their deficiency in imputed taxable valuation.
- 3) Calculations made to determine the equity payment should include mineral income and tuition income by imputing these categories of cash revenue into an imputed taxable valuation per student. For districts that have treatment programs

- within the district, only the district's regular tuition rate will be used and excess tuition will not be counted.
- 4) The equity payment should be limited to the district's own tax revenue raised, i.e. taxable valuation multiplied by the general fund mill levy. However, school districts with unusually low amounts of taxable property should be given an assumed minimum amount of taxable valuation and an assumed general fund mill levy.
  - 5) Equity payments should be adjusted in order to discourage districts with low imputed taxable valuations per student from continuing to operate with General Fund mill levies that are below 185 mills.

**Recommendation:** (Refer to the chart and number key on page 33, "Equity Payment Illustration.")

- 1) Establish an equity payment plan that uses imputed taxable valuation per student as the basis for comparing available resources among districts. Imputed taxable valuation is the taxable valuation of real property plus a theoretical valuation created by dividing 75 percent of a district's cash revenue from minerals and unrestricted tuition by the district's general fund levy. The entire amount of "other" revenue is not used because of the added difficulties of educating large numbers of transitory students.

**EQUITY PAYMENT ILLUSTRATION**  
**(Based on Dickinson School District Prior Year Data)**

**Key Statewide Information**

1.	Taxable Valuation (imputed)	\$1,706,813,733.00
2.	Grades PK-12 Base ADM	95,883.08
3.	Valuation Per Student (imputed)	\$17,801.00
4.	90% of Statewide Average Imputed Taxable Valuation Per Student	\$16,020.89

**Dickinson School District**

5.	Taxable Valuation (imputed)	\$32,519,598.00
6.	Grades PK-12 Base ADM	2,531.26
7.	Taxable Valuation Per Student (imputed)	\$12,847.20
8.	Missing Imputed Valuation Per Student (Line 4 less Line 6)	\$3,173.69
9.	Total Imputed Taxable Valuation Deficiency (Line 8 times Line 6)	\$8,033,442.47
10.	District's General Fund Mill Levy	185.00
11.	Equity Payment (Line 9 times Line 10 – up to 185 mills)	\$1,486,186.86
12.	General Fund Tax Revenue	\$5,536,169.40
13.	Equity Payment (Lesser of Line 11 or Line 12)	\$1,486,186.86
14.	Low Mill Levy Adjustment	N/A
15.	Minimum Equity Payment	N/A

The Equity Payment Plan is calculated as follows:

**Key**

- 1, 2, & 3) Divide the state's imputed taxable valuation by the state's base ADM for PK-12 to determine the state average imputed taxable valuation per student.
- 4) Multiply the state average imputed taxable valuation per student by 90 percent.
- 5, 6, & 7) Divide the district's imputed taxable valuation by the district's base ADM for PK-12 to determine the district's average imputed taxable valuation per student.
- 8 & 9) If the school district's valuation per student (line 7) is less than 90 percent of the state average valuation per student (line 4), calculate the total valuation deficiency by multiplying the difference in per student valuation (line 8) by the district's base ADM (line 6).
- 10 & 11) The equity payment is the valuation deficiency (line 9) multiplied by the district's general fund mill levy (limited to 185 mills).
- 12 & 13) The equity payment may not exceed the school district's annual proceeds from property tax, i.e. its taxable valuation multiplied by its general fund mill levy.
- 14) If a district has a general fund mill levy that is less than 185 mills, the equity payment must be reduced by an amount equal to the difference

in mills between the district's own general fund mill levy and 185 mills, multiplied by the taxable valuation of the district.

- 15) If a district has less than 50 percent of the state average imputed taxable valuation per student, its equity payment is not subject to the limitations set forth on line 12, but rather is calculated to be 20 percent of the state average imputed taxable valuation per student multiplied by the district's weighted student units, and that product is multiplied by 185 mills.
- 2) Appropriate \$37.5 million for the 2007-2009 biennium to cover the cost of the equity payment plan.

**Legislation Required:**

- 1) Repeal sections relating to the mill deduct and the supplemental payment plan.
- 2) Create a new section to enact the equity payment plan.

## SPECIAL EDUCATION

### Background

On August 31, 1982, U.S. District Court Judge Bruce Van Sickle ruled in ARC v. the State of North Dakota that the State had not met the rights of disabled citizens under the U.S. Constitution. Among other findings, it was held that developmentally disabled children of school age were not receiving their right to a proper education comparable to the education provided to non-disabled children. It was also held that any special accommodations necessary for the education of disabled students must be provided, without exception. Soon thereafter, these findings were affirmed by federal law. This requirement for special accommodations is known as “special education” and has been a distinct program supported by federal and state funds since that time.

Initially, the state developed a program for special education based on a unit reimbursement system, as well as contract reimbursements for high cost students. This approach was in use from the mid-1970s until 1995.

Eventually, complaints began to surface regarding this system. The amount of administrative paperwork increased as school districts were required to justify the amount of financial support needed for each student. School districts were generally motivated by the fact that any services not funded by the state and federal government had to be paid for by the district itself. Another complaint was that school districts received reimbursements without regard to the number of students being served. It was primarily an inequity in the size of the units.

Therefore, in 1995, the special education funding formula was changed. The new formula allocated 25 percent of the available state funds to the cost of contracts under which services are provided for severely disabled students. The other 75 percent of available state funds was distributed proportionately to school districts on the basis of ADM. The principle behind this funding system is that if the costs of the contract reimbursements are fully covered, then the percentage of less severe special needs students in a given population of school age children will over time be roughly equal. In the 2005 Legislative Session, the proportion was adjusted to approximately 70 percent for ADM payments and 30 percent for contracts.

In 2006, Dr. Tom Parrish and Dr. Jennifer J. Harr of the American Institute for Research, conducted a study of special education services in North Dakota. The study found that the distribution of funds by ADM for the non-contract side of the formula was the preferred method and in fact should be merged with General Fund appropriations for greater flexibility, better integration of general and special education services, and therefore greater equity overall.

The Commission has affirmed the Parrish-Harr recommendation to use a merged ADM distribution system for the non-contract part of the formula. To arrive at this conclusion, the Commission itself conducted an analysis regarding the allocation of ADM funds. The state's current reporting system could be used to classify students on the ADM side of the formula into three categories - mild, moderate and severe. A 2006 test was conducted in which a greater weight was given to the moderate disability category and the greatest weight was given to the severe disability category. The cost of this blended funding

approach was then compared to the amount of funds that would be received on a straight “dollars per eligible ADM” allocation using the same amount of state funding. The Commission found that the dollar differences between the two formulas were not significant as a percentage of any district’s funding allocation.

A further problem with categorization of students was discovered in the administration of the program: financial rewards encourage the assignment of more severe labels, and there is inequity in assigning the same cost assumption across a whole range of disabilities. The consultants’ conclusion was that the state’s current ADM distribution system may be as effective as any other method. An ADM system creates no incentive to identify students for special education, and there is no higher funding for one form of placement over another. However, the consultants went on to say that the state’s funding of this part of special education is almost certainly inadequate to meet the actual needs of the non-contract special education students.

For the other part of the state’s special education system, the contract side of the formula, Dr. Parrish and Dr. Harr recommended that the state pay 90 percent - 100 percent of the excess costs of educating the highest cost 1 percent of special education students. While this assumes a smaller number of students, (i.e. approximately one-half the number of students that currently qualify for excess cost reimbursement), it is intended to fully fund the most severe 1 percent of all cases. Full payment of the “excess costs” will be guaranteed. Currently, the state pays only to the extent of available funds. In certain cases, the reimbursement has been as low as 17 percent of a district’s costs.

In order to set the excess cost liability to the state, the consultants also recommended that districts accept more of the base liability for student contracts. Their recommendation to cover the excess costs of educating the highest cost 1 percent of special education students would indicate that districts cover up to 5.0 times the state average per student cost of school-placed students, rather than the current 2.5. This assumes a state appropriation of \$56,500,000 for special education. This approach would greatly reduce the amount of paperwork required to file claims for state reimbursement.

The Commission recommends continuing the state's current policy of reimbursing excess costs over 1.0 times the state average cost per student for agency-placed students and guaranteeing full payment.

The Parrish-Harr study also recommended measures to control costs of agency placed students and high cost students. Among the recommendations is the creation of an audit team to test the reasonableness of provider costs, review placements for appropriateness, and accurately separate education costs from other costs.

Finally, the study recommended that special education units be aligned over time with other education service entities, (i.e. educational associations governed by JPAs).

### **Principles for Change**

- 1) In regard to the distribution of state funds to non-contract special education students, the Commission recommends merging special education ADM distributions with general education ADM distributions. After establishing a target percentage for special education as a percentage of total education

funding, the goal should be to move to the target percentage over time. The greatest equity results from full flexibility among funding sources, the integration of general and special education services, and the elimination of competition for funds between the two constituencies.

- 2) The state should pay 100 percent of the excess costs incurred by the most costly 1 percent of the special education population, (i.e. the contract-based special education students). This would provide school districts with “catastrophic coverage.” It would also provide equity by eliminating the necessity for budget reserves to cover the uneven and unexpected charges incurred on behalf of these highest cost students. In order to guarantee reimbursement of these costs, the Legislative Assembly should devise a mechanism to ensure that funds are available for this purpose.
- 3) In order to ensure full funding of all contracts, the threshold to qualify for excess cost reimbursement of school-placed students should be adjusted to result in the most severe 1 percent of the special education population being fully covered by the state.
- 4) It does appear that valuable financial resources are being pulled away for agency-placed contracts and for high cost contracts. Rather than establish a costly audit staff with no real authority, the Legislative Assembly should establish an effective means of cost control for these services.
- 5) Over time, special education units should be made more efficient. There should be fewer in number and they should be aligned with other education

service providers for better coordination and equitable distribution of all education services.

### **Recommendations**

- 1) The Commission recommends that the Legislative Assembly combine special education per student payments with general education per student payments, and raise the special education percentage over time. Because the consultants may be correct in saying that the current funding level is inadequate for most school districts, the Commission recommends an increase of \$3 million in state funds over the amount appropriated for the 2005-2007 biennium for special education ADM distribution. This would bring the funding level from \$37,000,000 to \$40,000,000 per biennium, including funds for Gifted and Talented programs.
- 2) The Commission recommends that the Legislative Assembly guarantee the excess costs incurred by school districts in serving the top 1 percent of most costly students in the special education population. In order to guarantee these funds, the following steps should be taken in order: 1) Appropriate an amount that accurately reflects the forecasted cost of serving these students and reimbursing 100 percent of the excess costs to school districts; 2) If this amount proves to be deficient, make up the shortfall through a first claim on any surplus state aid available at the end of the biennium; 3) If there are inadequate surplus funds available, make up any shortfall with a special authority to draw funds from the Bank of North Dakota and present a

deficiency request to the 2009 Legislative Assembly. Overall the Commission recommends an increase of \$1 million in state funds for special education contracts over the amount appropriated for the 2005-2007 biennium. This would bring the funding level from \$15,500,000 to \$16,500,000 in state funds per biennium. The Commission recommends that the Legislative Assembly raise the threshold payment required of school districts to the multiplier currently estimated at 5.0 times the state average cost per student, the factor necessary to limit the “excess cost” pool to the most severe 1 percent of students under school-placed contracts. This recommendation assumes a co-pay of 0 percent and it assumes that “allowable costs” exclude equipment and transportation only.

- 3) The Commission recommends that the Legislative Assembly require the Superintendent of Public Instruction, in cooperation with the Department of Human Services, to develop a schedule of reasonable reimbursement rates for providers of education services and developmentally-disabled services covered by special education contracts. The individual education plan for each student must include regular evaluation of the appropriateness of the placement. The Superintendent of Public Instruction and the Department of Human Services should review together the reasonableness of the amounts being charged, and separate the costs of education services from the cost of developmentally-disabled services.

- 4) The Commission recommends that the Legislative Assembly reduce the number of special education units in the state. By June 30, 2009, there should be approximately 18 special education units because greater equity can be achieved by forming larger pools of funds for a region. This is desirable not only because of the greater flexibility to move funds to the greatest need, but also because a larger entity allows for efficiencies that result in cost savings. Eventually, the number of special education units will average out to two special education units for every educational association governed by a joint powers agreement (JPA). At that time, special education units should be encouraged to align themselves with educational associations governed by JPAs to coordinate and enhance the delivery of all education services.

#### **Legislation Required**

- 1) In the budget bill for the Department of Public Instruction, \$40,000,000 would be included in the total amount appropriated for per student payments, of which \$400,000 would continue to be earmarked for Gifted and Talented programs. In addition \$16,500,000 should be reserved in the total State Aid to Education appropriation for Excess Costs beyond the district's liability for contract services. The narrative should specifically provide that any shortfall in the appropriation should be covered first by surplus State Aid dollars and then authority to draw from the Bank of North Dakota as needed.

- 2) Legislation should be introduced requiring the Department of Public Instruction to develop a schedule of allowable cost reimbursement rates for providers of education services for agency placed contracts and for high-cost contracts. This should be coordinated with the development of a reimbursement schedule for DD services by the Department of Human Services for the same non-profit providers. The measure should provide that effective July 1, 2008 billings for education services will be forwarded to the Department of Public Instruction and billings for non-education services must be forwarded to the Department of Human Services and the two categories must be accurately separated.
- 3) Agency-placed regular education students and “state responsible” students will continue to be funded out of the total State Aid funds appropriated.

## CAPITAL IMPROVEMENT EQUITY

### Background

A school funding lawsuit in South Dakota found that some school districts did not have adequate tax bases to finance school capital improvements. All school districts sooner or later face the challenge of a major school remodeling or even an entirely new school building regardless of whether the enrollment in the school district is growing or declining. Reliance on taxable valuation for raising funds for capital improvements creates disparities among districts in their ability to finance these projects.

The typical method of financing capital improvements is to assess a building levy on the taxable property in a school district. If a school district has inadequate taxable valuation, a contemplated building project becomes an even greater challenge. Such a district often has an already high general fund levy and neither its board members nor its patrons are willing to impose even higher taxes for capital improvements. Even when a levy is passed in a low valuation district, it takes more mills over a deficient tax base to raise the same amount of money as an average district could raise.

Several school districts in the state have shown resourcefulness in this area by asking their city councils to help by means of a city sales tax. Although school boards should be praised for this creativity, it demonstrates the difficulty of imposing higher property taxes in districts having limited tax bases. Obvious disparities would exist if school districts had to rely on the varying amounts of taxable sales within their boundaries. The state has a fund to provide low interest loans to qualifying school districts. There is a strong possibility that more loan funds are needed to meet the needs of low tax base districts.

A second and opposite problem has emerged over the years in regard to capital improvements. Some school districts with relatively generous taxable valuations have found the opportunity for capital improvements to be almost too easy. In the 1970s, some districts were seen making large investments without regard to their enrollment outlook or their proximity to other facilities. The Legislative Assembly gave the Superintendent of Public Instruction the authority to require that school districts obtain departmental approval prior to undertaking any school expansion or building project. This mandatory review of a district's needs and options has frequently served as a deterrent against hasty decisions by school boards.

A third problem has been the tendency for school districts with declining enrollment to view their future outlook as a competition for survival. Tales are often told of patrons from one district hoping for the decline of a neighboring district so that the children from the neighboring district will have to attend school in the patron's district. This state of affairs postpones any possibility of reorganization and prevents opportunities for joint future planning by neighboring school districts.

### **Principles for Change**

- 1) The requirement that school districts obtain approval from the Superintendent of Public Instruction for expansion and building projects is an important control to prevent any unwise investments.
- 2) The current needs-based evaluation system for school districts contemplating a remodeling project, an expansion, or new construction should be coupled with

- equity criteria to determine eligibility for an Equity Program for Capital Improvement. Qualifying school districts would receive loan funds at discounted interest rates to cover a majority of the project costs. Districts having greater deficiencies in taxable property would be eligible for greater equity incentives. The Superintendent of Public Instruction would manage guidelines for these funds and a 30-year expected project life would be a minimum requirement.
- 3) School districts that are working toward reorganization and are willing to jointly plan their future capital spending should be able to access a “Capital Improvement Assistance Program.” Under such a program, significant incentives should be provided according to the number of districts involved, the number of students in the participating districts, and the size of the districts. Although the state has no mandatory requirement for school district consolidation, deficiencies in both equity and adequacy may arise as school district enrollments fall below the size needed to provide a high quality, multi-faceted education. Until the Legislative Assembly addresses the possible need for a minimum school district size, incentives are the best way to help school districts manage declining enrollment.
  - 4) Deferred maintenance should be addressed whenever a surplus of state funds develops due to unanticipated revenue growth.

## **Recommendations**

- 1) The Commission recommends that the Legislative Assembly develop and implement an equity program for capital improvement. Eligible school districts should receive discounted loan funds from the Coal Development Trust Fund for remodeling, expansion, or construction projects that meet the approval criteria established by the Superintendent of Public Instruction. Eligible school districts should be separated into two categories:
  - i) School districts receiving equity payments under the new equity payment formula and having taxable valuations per student that are in the range of 80 percent – 100 percent of the state average actual valuation per student should be eligible to receive:
    - a) Up to \$7,000,000 of loan funds or 70 percent of all project costs, whichever is less;
    - b) Interest discounts of 50 to 200 basis points off the cost of funds depending on the scoring system; and
    - c) Principal repayment terms up to 20 years.
  - ii) School districts receiving equity payments under the new equity payment formula and having taxable valuations per student that are less than 80 percent of the state average should be eligible to receive:
    - a) Up to \$8,000,000 of loan funds or 80 percent of all project costs, whichever is less;

- b) Interest discounts of 50 to 200 basis points off the cost of funds, depending on the scoring system; and
- c) Principal repayment terms up to 20 years.

Borrowing authority from the Coal Development Trust Fund will need to be increased from \$40,000,000 to \$50,000,000, and any available funds should be eligible for loans to all qualifying school districts. Projects that are eligible for assistance under the equity program for capital improvement should have a value of at least \$1,000,000 and an expected project life of at least 30 years.

- 2) The Commission recommends that the Legislative Assembly enact a capital improvement assistance program to assist school districts that are willing to jointly plan future infrastructure as part of a reorganization. Eligible projects must be reviewed by the Superintendent of Public Instruction and approved based on their useful life, strategic location, and students to be served. School districts that meet the criteria would be eligible for the following incentives:

- i) Up to 300 basis points of interest rate buydown on the principal of up to \$13,500,000 of school district bond issues or 90 percent of all project costs, whichever is less, provided that the percentage of project costs eligible for loan funds be determined as follows:

- 1 percentage point for every 10 students added (capped at 50 percent);
- 5 percentage points for each school district involved; and
- 5 percentage points for each added 100 square mile increment.

- ii) Interest rate buydown payments on bond issues with up to 30-year maturities. Interest rate buydown payments will be made directly to the new school district from an appropriation in the Department of Public Instruction budget bill. The source for the dollars is the interest on the foundation aid stabilization fund.
- 3) If state revenues exceed projections by \$30,000,000 or more at the beginning of the 2008 or 2009 fiscal year, \$10,000,000 should be appropriated and distributed to school districts for deferred maintenance.

### **Legislation Required**

- 1) Allow school district capital improvement loans to be drawn from the Coal Development Trust Fund. The loan funds should be targeted to needy school districts as defined by the equity payment formula, and the largest incentives should go to the most needy districts. Minimum project eligibility should be set at \$1,000,000 and each project should have an expected project life of at least 30 years. Borrowing authority from the Coal Development Trust Fund will need to be increased to \$50,000,000.
- 2) Establish an incentive program for two or more school districts that jointly plan and carry out capital improvements as part of a reorganization. The program should allow for interest rate buydown funds to be paid directly to the school districts to help service local school bond issues. The amount of the incentive should increase as the number of participating students, school districts, and

square miles increases. The Superintendent of Public Instruction should be granted the authority to draw on the interest from the Foundation Aid Stabilization Fund, within the limits of legislative appropriation.

- 3) Provide a contingent appropriation of \$10,000,000 for deferred maintenance.

## **CAREER AND TECHNICAL EDUCATION**

### **I. Background**

The State Board for Career and Technical Education receives approximately \$10,000,000 each biennium to support various programs around the state. These dollars are augmented with \$9,500,000 from federal sources and are used as a cost share incentive to encourage the establishment and delivery of career and technical education programs by school districts.

Cost share percentages vary by program. Area Career and Technology Education Centers receive 38 percent of all approved costs for comprehensive occupational programs in regional cooperative high schools. By contrast, instructional salaries and extended contracts at individual high schools receive only a 25 percent cost share.

Other programs operated through the State Board include Family and Consumer Science, Technology Education, Career Development, Cooperative Cost Sharing, and Adult Farm Management.

### **II. Principles for Change**

- 1) Career and technical education (CTE) funding is not disbursed uniformly across the state. School districts must provide a majority of the funds for career and technical education programs. School districts with greater financial resources tend to have more opportunities to offer career and technical education programs and districts with sufficient numbers of participating students tend to be better able to achieve the efficiencies necessary to run these programs. However, it

appears that the presence or absence of career and technical education programs is directly related to the level of appreciation that exists for such programs in a given school district or group of districts.

- 2) Attempts to establish Area Career and Technology Centers have met with only partial success. There appear to be two major reasons for this fact: the cost share incentive for area centers has not been strong enough; and there has been no financial assistance to address the upfront cost of establishing a new Area Career and Technology Center.
- 3) Once a statewide program is established for career and technical education that has the capability of offering opportunities to 90 percent of all high school students through various means, then legislators can begin to discuss the overall level of state funding that should be in place to support such a program.
- 4) All Area Career and Technology Centers should coordinate their programs with regional economic development and workforce training programs.
- 5) To the extent possible, new and existing Area Career and Technology Centers should join with educational associations governed by JPAs to deliver career and technical education programs. There should be cooperation with respect to both administration and governance.

### **III. Recommendations**

- 1) The Legislative Assembly should improve the uniformity of career and technical education across the state by promoting the development of more Area Career and Technology Centers and by seeking greater cooperation among school districts.
- 2) The Legislative Assembly should dramatically increase the funding incentives for Area Career and Technology Centers and for the cooperative delivery of career and technical education programs. The Legislative Assembly should add new funding (\$800,000) and ask the State Board for Career and Technical Education to reprioritize funding from other existing programs (\$500,000).
- 3) In addition, the Legislative Assembly should provide pilot program funding to the State Board for Career and Technical Education to defray the start-up costs of two new Area Career and Technology Centers. These funds (\$1,200,000) should be awarded on a competitive basis according to the number of new programs and the number of new students participating in the programs. State funds for the pilot projects should reimburse 75 percent of the approved costs and 25 percent should be provided by the participating school districts or educational associations governed by JPAs. Priority should be given to an educational association that proposes an area center capable of serving most of the association's members. In such a case, the cost of an administrator may be included. It is envisioned that the first year of the biennium will be dedicated to awarding the pilot project grants and to completing the initial planning stage.

- 4) The majority of the new and rededicated dollars that are provided for Area Career and Technology Centers and for other cooperative delivery strategies (\$1,300,000) should be used as cost share incentives for centers that improve such things as transportation to central facilities having equipment that is shared, outreach delivery through online education and interactive video, and outreach through mobile labs.
- 5) All Area Career and Technology Centers should be organized to participate with city, county and regional economic development programs.
- 6) All Area Career and Technology Centers should be organized to participate with all local and regional workforce training initiatives.

#### **IV. Legislation Required**

- 1) The budget bill for the State Board of Career and Technical Education should include a line item for new pilot area centers. The bill should include cooperation incentives, and guidelines regarding the use of the pilot project funds.

## **EDUCATION ASSOCIATIONS GOVERNED BY JOINT POWERS AGREEMENTS (JPA's)**

### **Background**

In the 2003 Legislative Session, educational associations governed by joint powers agreements (JPAs) were endorsed by lawmakers as a way for school districts to obtain education and administrative services through regional cooperation. A list of approved services was developed and a system of state incentives was established under which JPAs could cost share based on the number of services offered to member school districts. JPA governance consisted of a school board member from each participating district. The budget and scope of activity was left to each JPA. State funding for 2003-2005 was \$250,000 in contingency funds. In 2005, the Legislative Assembly determined that JPAs were functioning well and provided the cost share program with a General Fund appropriation of \$1,000,000 and an additional \$1,000,000 from any surplus education dollars available at the end of the biennium. JPAs are expected to receive these funds in June 2007.

Presently, the state has nine JPAs covering 94 percent of the state's enrollment. By the 2007 Legislative Session, this may be as high as 98 percent.

### **Principles for Change**

- 1) After much discussion, the Commission concluded that JPAs are a vehicle for the provision of equity and adequacy at the school district level. As student enrollment continues to decline, and as school districts continue to operate shrinking schools, the provision of an adequate education and the achievement of operating efficiency can be greatly enhanced through a regional service delivery

- option. This education delivery system becomes even more important in the absence of a required minimum school district size.
- 2) With projections indicating that North Dakota's Class B schools face a reduction in their current enrollments of one third over the next six to nine years, JPAs may be the only politically acceptable solution to ensure an adequate education for students in these schools. Since the cooperation of all school districts, large and small, is required to make regional service entities truly effective, there is a strong case to be made for developing partnerships between locally governed regional units and the state in order to ensure an adequate education for all students, regardless of school or school district size. These partnerships should be supported with incentive funding to ensure the development of effective, comprehensive, regional service entities.
  - 3) JPAs have great potential for a state like North Dakota. As the Commission examined the future challenges of delivering special education and career and technical education statewide, it was told time and time again that JPAs should be considered as a vehicle for future service delivery. Some of the Commission's recommendations contemplate the use of compatible service districts. It is hoped that members of the Legislative Assembly will take advantage of current opportunities to further the use of JPAs by school districts.

### **Recommendations**

- 1) The Commission recommends that the General Fund appropriation for JPAs be increased from \$1,000,000 to \$2,000,000 to provide increased support for this promising new program.
- 2) The Commission recommends that JPAs once again be eligible for \$1,000,000 from any surplus education dollars available at the end of the 2007-2009 biennium, second only in priority to the excess cost requirements for special education contracts.
- 3) The Commission recommends that the board chairmen and executive directors of the various JPAs form a working group and make their wishes known to members of the Legislative Assembly.

### **Legislation Required**

- 1) The funding line for JPAs should be increased by \$1,000,000 over the 2005-2007 amount and the contingency language for an additional \$1,000,000 should be included, bringing the total state support to \$3,000,000.

## OPTIONAL FUNDING PRIORITIES

The Commission discussed the possibility that the Governor and the Legislative Assembly may determine that the revenue outlook for North Dakota's 2007-2009 budget would allow for an allocation of more than \$60,000,000 of new state dollars for elementary and secondary education.

The Commission realizes that its mission as ordered by the Governor is to recommend the best possible use of the \$60,000,000 in new state funds in order to optimize equity and adequacy for K-12 education. Nevertheless, the Commission is pleased to offer an additional recommendation for any additional dollars that may become available for the 2007-2009 biennium as follows:

- 1) Any increase in the distribution from the Common Schools Trust Fund, previously distributed under the tuition apportionment program on the basis of census, should now be distributed under the new main formula on a per student basis. These new dollars, currently estimated to be \$4,000,000, should not be counted toward the \$60,000,000 agreed upon with the plaintiffs because these new dollars would have accrued to the benefit of the state's public schools under any circumstances. The extra dollars would be divided equally between Year 1 and Year 2.
- 2) An additional \$5,000,000 distributed as per student payments would be advisable because it would allow all districts to receive a significant increase in the per student payment in the second year of the biennium. It would also allow more

school districts to immediately go “on the formula” rather than be supported by the minimum growth guarantee on the payment per weighted student unit.

- 3) An additional \$3,000,000 for at-risk children attending full-day kindergarten would be advisable because it would allow the state to make a step forward in support of expanded kindergarten and in support of children who are “at risk.” Specifically, for students who are attending a second half day of kindergarten, the state would provide an additional half-day payment (an additional .50 factor under the new formula) for the at risk population in that group. For payment purposes, “at risk” is defined as the percentage of kindergarten children who have been estimated as eligible for free or reduced fee lunch under the federal school lunch program by using the percentage of students eligible for grades 1-6 in that district. For attendance purposes, the school district retains the authority to determine which students may attend the additional half-day session, i.e. at-risk poverty, at-risk academically, or all students.
- 4) An additional \$4,000,000 for special education to be allocated as \$3,000,000 for per student distributions and \$1,000,000 for contract payments with the multipliers to be adjusted accordingly.

## MOVING TOWARD AN ADEQUACY-BASED SCHOOL FUNDING SYSTEM

### Background

- 1) North Dakota has a number of statutory requirements for K-12 education, including minimum curriculum and diploma requirements for all students, minimum course offerings for high schools, and minimum days of instruction, hours of instruction per day, and hours of instruction per course.
- 2) North Dakota also has various requirements for teachers. The Education Standards and Practices Board oversees the licensure of teachers and requires compliance with both state and federal laws regarding teacher qualifications. To be licensed in North Dakota, a teacher must have at least a baccalaureate degree from an approved teacher program and must have completed appropriate major areas of study.
- 3) North Dakota also supports, through its funding policies, a wide range of programs and services that are considered important enough to receive ongoing state financial support. These programs and services include half-day kindergarten, alternative high schools, summer school, ELL programs, the supervision of home-based instruction, migrant summer school, extended school year, and transportation.

## **Principles for Change**

In addition to the statutory requirements and state policies, there are a number of informal “expectations” that North Dakotans have of their school districts. The Legislative Assembly should review these public expectations on an ongoing basis and determine which of these should be included in the state’s school funding program. Examples of these expectations include:

- 1) Class size. Research indicates a strong correlation between class size, or student-teacher ratio, and the subsequent educational progress of students, especially in the early grades (K-3). The Commission should seek authority from the Legislative Assembly to determine a maximum number of students per teacher across the various grade levels, and determine the fiscal effect of meeting this standard.
- 2) Teaching staff. Some research indicates that teachers with more training and more experience achieve better educational outcomes. The Commission should seek authority from the Legislative Assembly to determine whether all school districts could theoretically fund a prototypical teaching staff, with varying levels of qualification and experience, based on the current configuration of districts.
- 3) Early education. The Commission recommends that the Legislative Assembly provide full funding for all-day kindergarten, within the limits of available funds. The Commission recommends that the Legislative Assembly make an initial step toward this goal by funding payments for at-risk kindergarten students in Year 2 of the biennium as described on page 60 of the report.

- 4) Career counseling. The Commission recommends that the state provide career counseling to help students link classroom studies to skills they will need in their career choices. The Commission specifically recommends that the state make a major first step by providing funds for a full-time career counselor in each JPA in the state.
- 5) Special education. Federal law requires that all students with disabilities be provided the same educational opportunity as other students in the “least restrictive environment”. It has fallen to the states to ensure that the combination of federal, state and to the extent available, local funds add up to an adequate amount of resources to meet the requirements of federal law. The Legislative Assembly should conduct a study to determine the typical spending pattern for special education across a representative number of districts and analyze the state’s relative share of these costs.
- 6) Curriculum. Career development specialists, as well as the popular media, have arrived at a general consensus that many of the best job opportunities in the future will require the availability of instruction in advanced Math and Science, as well as formal instruction in foreign languages. The Commission should seek authority from the Legislative Assembly to periodically review these changing needs and expectations and make appropriate policy recommendations. Once the policy choices are identified, the Commission should determine the means by which all school districts can access adequate resources to deliver the necessary curriculum.

- 7) Comparison of total costs to available resources. All requirements of a school district established by law and administrative rules should be analyzed to the extent possible to determine their total cost, and then should be compared to the total financial resources available to the district.

### **Recommendations and Further Commission Work**

The Commission looks forward to continuing its work in evaluating the components needed to develop a finance system that guarantees a true “adequate” education for every K-12 student in the state.

These components would include:

- 1) An analysis of the accuracy of all the weighting factors applied to the base per student payment as a measure of the relative cost of educating each student. Further study would probably indicate that adjustments are needed to reflect the added costs of providing education to the various categories of students.
- 2) Further analysis to determine if there are other weighting factors that should be included to reflect the added costs of other categories of students.
- 3) A calculation of the approximate spending level per student that would be required to fund the needs of every school district in the state as prescribed by the weighted student units developed in steps 1 and 2.

The final step in the process would be to determine how the spending would be supported, using all available sources, including federal dollars, property tax revenue, county

income, tuition income, and state dollars. An analysis should be conducted to determine a proper balance of funding sources.

The Commission's goal is to determine the necessity of having state funds make up any deficiency in the funds available to meet the "adequate" spending level defined as the spending required by law and administrative rule.

All of these are potential scenarios and are presented only to illustrate how the Commission might contribute to the process of further improving the state's system of financing K-12 education.