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NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

MAY 2021

Excellence in North Dakota public education through local school board governance ■ VOL XLVI ISSUE 5

67th Legislative Session Adjourns after Midnight



The 67th Legislative Assembly of the State of North Dakota adjourned sine die at about 12:15 a.m. on Friday, April 30.

Once again, the Office of Management and Budget's appropriation bill (HB 1015), which is often used as a catch-all for last minute amendments, was the last bill out.

Legislators worked into the wee hours of the morning in order to save four legislative days, as adjourning and coming back would have cost them another day. If they choose to do so, the legislature will be able to call themselves back into session to address additional federal funding with the remaining days. They will also reconvene in November or December, likely at the call of the Governor, to redistrict – something that happens every ten years following the census. Finally, Legislative Management will meet on May 19 to select interim studies – a number of which could be very significant to NDSBA members.

While there were a few losses, we believe K-12 education fared well this session. Board members are encouraged to review the full legislative wrap-up emailed to them on April 30. In addition, NDSBA will be focusing its June 16 Lunch and Learn webinar on the 2021 Legislative Session. Board members, business managers, and administrators are welcome to register

for this free session at <https://bit.ly/33DaQ6i>.

HB 1388 is likely the most significant piece of education-related legislation passed this session. It was also one of the last education bills to be finished. It establishes changes to the policy for implementing the K-12 funding formula and was the “catch-all” bill for issues germane to education. After many days of disagreement among the conference committee members assigned to the bill, Senate members persisted and were able to convince the House members to agree to a 1/1 per pupil payment increase (\$10,136/\$10,237).

In addition to the increase in the per pupil payment, HB 1388 does the following:

- Adjusts the small school district size weighting factors.
- Provides the ability of a school district to meet instructional time requirements through a virtual instruction program that meets certain criteria. It also includes provisions to account for virtual instruction in the ADM calculation.
- Adds a reading competency component to the teacher licensure requirements and additional requirements to reading curriculum.
- Adjusts the timing for the phase-out

of moving transition maximum school districts onto the K-12 funding formula.

- Provides for a legislative management study of K-12 funding, including transition minimum reduction impacts on reorganized and consolidated school districts.

Many of the sticking points regarding funding issues centered around the federal funding received by school districts over the past year. Some legislators would have preferred to supplant more state dollars with these funds. The wise, thoughtful, spending of these dollars by school districts will be very important to the success of our future funding negotiations at the legislature. School board presidents or their designee are strongly encouraged to join their superintendents and business managers in attending the ESSER Training hosted by NDCEL, NDSBA, and NDSOS on June 3 in Bismarck. More information on this training can be found at <https://www.ndcel.us/page/esser-training>.

Now that all of the bills have been signed, NDSBA staff has begun working on guidance regarding policy changes and new requirements. We will distribute that information as we finalize

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NOTICE: NDSBA Mailing Address Change

North Dakota School Boards Association will no longer be using *PO Box 7128, Bismarck, ND 58507-7128*.

Please use the address **1224 West Owens Avenue, Bismarck, ND 58501** for any mail sent to NDSBA. Thank you!

Innovative Education Week, IgniteND

Gov. Doug Burgum and State Superintendent Kirsten Baesler recently announced Innovative Education Week, June 7-11, 2021. The content-rich week of events kicks off with the fifth annual Governor's Summit on Innovative Education on June 7, featuring a keynote by Code.org CEO and co-founder Hadi Partovi. This event is free and open to the public with limited in-person seating available as well as a livestream broadcast. Registration information is available at 2021innovativeedsummit.eventbrite.com.

IgniteND is a four-day series of workshops and speakers for educators on June 8-11 with innovative curriculum focused on computer science and cybersecurity. The event will take place virtually and in person at BSC. Complete agenda and registration information is available at <https://www.ignitend.com/>.

The 2021 #InnovativeND Awards will be presented at the Governor's Summit on Innovative Education, recognizing educators, schools, districts, and students who have made a difference in education in North Dakota.



Legal Spotlight

HB 1349: New Changes to Open Meetings Requirements and Hiring Practices

by Amy De Kok, NDSBA Legal Counsel

Over the past several months while schools have been dealing with the challenges presented by the pandemic, school boards have been able, pursuant to Executive Order 2020-16, to fulfill the public access to meetings requirement through electronic means without the need to provide a physical location. By its terms, this order remained in effect for the duration of the declared state of emergency. However, with the Governor's recent declaration that the emergency period is over as of April 30, 2021, Executive Order 2020-16 has expired. As such, school boards must now provide a physical location for public access to their meetings. Boards may provide an option for public access to meetings via virtual means, but it must be in addition to access at the physical location of the meeting at least until August 1, 2021. On that date, HB 1349, which passed during the recent legislative session, will become law.

HB 1349 made some important changes to the open meetings

requirements set forth in NDCC chapter 44-04, namely the ability of a public entity to hold meetings by electronic means and to provide public access by electronic means. To hold meetings by electronic means under the new law, the electronic capacity must accommodate the number of persons reasonably expected to attend the meeting remotely. In addition, the information necessary to join or view the meeting electronically must be included in the notice issued pursuant to NDCC 44-04-20. The notice required in that section must contain the date, time, and location of the meeting. The bill confirms that for meetings to be held by electronic means, the location of the meeting is the electronic address and any other information necessary to allow the public to join or view the electronic meeting.

School boards may still hold meetings in person at a physical location as they have always done. HB 1349 provides more flexibility for school boards and other public entities to take advantage of available technology to conduct public business. These changes should make it easier for school boards to continue to conduct public business during inclement weather events and unforeseen public health emergencies, as well as those common situations where it is difficult to schedule a meeting at a time when all board members are available.

HB 1349 also made some slight changes to section 44-04-18.27, which relates to hiring by public entities. Currently, section 44-04-18.27 requires a public entity that is hiring for a vacant position and receives applications from three or more qualified candidates to designate three or more qualified applications as finalists for further

consideration before the public entity may issue an offer of employment to fill the position. This section applies to public school districts and to any position being filling by a district (from part-time cook to superintendent, for example). Section 44-04-18.27 also provides that the applications and any records related to the applications which contain information that could reasonably be used to identify an applicant are confidential and may not be disclosed to the public except as provided by law. Once finalists are designated, the application and records related to finalists become open to the public. If the public entity receives applications from less than three qualified candidates, the applications and records are open to the public from the outset.

Under HB 1349, the applications and records relating to the applications (including the identities of the applicants) are exempt, as opposed to confidential. This means the public entity may exercise discretion as to whether to keep such information from the public or to make it open to the public. Once finalists are designated, the applications and records relating to finalists are still open to the public. The exempt status relates to all applications and related records during the time period prior to the designation of finalists and then to the applications and records relating to non-finalists once finalists are designated. The bill also clarifies that public entities may adopt policies regarding the release of exempt records under section 44-04-18.27.

Please contact NDSBA with any questions regarding HB 1349 and any other open meetings requirements.

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NDSBA Requesting Clinic Proposals

NDSBA is accepting proposals for 2021 NDSBA Annual Convention clinic sessions. The proposal submission form is included as an insert in the March *Bulletin* and can be found at www.ndsba.org under QUICK CLICKS.

Consider sharing unique or successful things happening in your district or suggesting a speaker or topic you would like to see.

Submissions are due by June 15, 2021.

Opportunity for Attorneys Interested in School Law

The NDSBA Legal Services Affiliation is a group of school attorneys who provide support and legal services to public school boards in North Dakota. It is an extension of the NDSBA Legal Services Program and exists under the NDSBA Board of Directors.

All attorneys who are interested in school law are encouraged to join the Affiliation. Two membership options are available: FULL MEMBERSHIP (\$200) is available to attorneys who are now representing or within the preceding two years have represented a public school district in the state of North Dakota and that school district is a member of NDSBA in good standing. Full membership includes membership in the National School Boards Association Council of School Attorneys (\$270) that is subsidized by NDSBA. **Membership in the national**



Policy Updates and Resources

This month's NDSBA Lunch and Learn focused on the most

frequently questioned topic on Policy Services - updating district policy. During the one-hour webinar, attendees were schooled on the anatomy of the NDSBA policy template and the process for updating district policy to reflect NDSBA's template language. Tips and best practices were also shared throughout the presentation and pertinent policy resource documents were highlighted.

Policy Services members, particularly new and seasoned board members, administration and business managers, are encouraged to familiarize themselves with this information to ensure consistent and proper execution when updating district policy. NDSBA Lunch and Learn recordings and materials can be viewed by going to the NDSBA website at <https://www.ndsba.org/wp/> and clicking the Resources tab. Members can contact the NDSBA office at 800-932-8791 if they have questions.

Council of School Attorneys is only available through NDSBA.

ASSOCIATE MEMBERSHIP (\$75) is available to any attorney who has an interest in representing school districts and school law. This membership DOES NOT INCLUDE membership in the national Council of School Attorneys.

Membership information and application forms are available on the NDSBA webpage at www.ndsba.org under *Services/Legal Services/Legal Services Affiliation*.



NDSBMCP Graduation and Recertification Ceremony

The North Dakota School Business Manager Certification Program (NDSBMCP) graduation and recertification ceremony will be Friday, June 18, at the North Dakota Heritage Center in Bismarck. The ceremony will begin at 2 p.m. CT with a reception to follow. Speakers this year include state Superintendent Baesler, NDSBA President Karl Lembke, NDSBA Executive Director Alexis Baxley and Jamestown Superintendent Rob Lech. Over fifty state business managers will be honored during this time. All are invited to attend and celebrate the students' hard work and dedication. Contact Rebecca Duben at 800-932-8791 for more information.



Business Manager Certification Program Accepting Applications

The North Dakota School Business Manager Certification Program (NDSBMCP) is now accepting applications for new students to begin courses later this summer. This certification program is a two-year, 61 credit professional development program geared toward new and long-serving business managers. The NDSBMCP application form can be accessed online at <http://ndsbmcp.org/index.php/handbooks-and-forms/>. Fifteen applicants are needed to

Legislative Session

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it. One thing to note: Some of the bills require administrative rules to be drafted by various state agencies. Two examples are House Bills 1232 (virtual instruction) and 1478 (alternative education opportunities). NDSBA cannot issue policy templates or updates until this process is complete, but please do not hesitate to contact us with any questions in the meantime.

NDSBA would like to offer a special thank you to the members who served on our legislative committee – we would not have had as successful of a session without your expertise and commitment. We are also grateful to all of the members who took time to send emails in response to our action alerts. We heard from many legislators who were appreciative of these emails.

Apply or Nominate Someone for MRO's Unconventional Thinking in Teaching Grant

Last month, Marathon Oil launched a new grant program – Unconventional Thinking in Teaching – to recognize outstanding educators in local communities. They are inviting teachers to apply or be nominated by their community members to receive a \$2,000-\$5,000 grant to support the purchase of classroom resources, such as books, activity/lab materials and technology, or personal/professional development.

Applications are due no later than June 15, 2021. For more information or to apply or nominate someone, visit www.marathonoil.com/teachers.

RETURN SERVICE REQUESTED



Gackle-Streeter School District

Part-time superintendent with possible teaching

Contact: Lisa Zenker

Website: www.gacklestreeter.k12.nd.us/

Phone: 701-485-3692

Email: lisamzenker@gmail.com

Deadline: May 31, 2021

Position begins: July 1, 2021



**NDSBA is on
Twitter!**

Follow us at

@**ndschoolorboards** for event, policy,
and other education-related updates.



ESSER Training

June 3, 2021

Ramkota Hotel, Bismarck

**North Dakota Indian Education
Summit**

July 15-16, 2021

State Capitol, Bismarck

Board Member Bootcamp

July 19, 2021

State Capitol, Bismarck

ND Rural School Summit

October 27, 2021

State Capitol, Bismarck

2021 NDSBA Annual Convention

October 28-29, 2021

Ramkota Hotel, Bismarck

2022 Negotiations Seminar

February 3-4, 2022

BSC National Energy Center of
Excellence, Bismarck

**Human Resource Collaborative
Conference**

April 20-21, 2022

Ramkota Hotel, Bismarck

2022 NDSBA Annual Convention

October 27-28, 2022

Ramkota Hotel, Bismarck