

MINUTES

Interim Joint Education Committee



Senator R. Blake Curd, Co-Chair
Representative Lana Greenfield, Co-Chair

**First Meeting, 2020 Interim
Wednesday, September 16, 2020**

**Room 414 – State Capitol
Pierre, South Dakota**

The first meeting of the Interim Joint Education Committee was called to order by Senator Blake Curd, Lead Co-Chair, at 9:00 AM. In accordance with COVID-19 guidance regarding limited group gatherings, several committee members participated in the meeting remotely.

A quorum was determined with the following members answering the roll call: Senators R. Blake Curd, Chair, Troy Heinert, Phil Jensen, Kyle Schoenfish, V.J. Smith, and Wayne Steinhauer; and Representatives Fred Deutsch, Lana Greenfield, Co-Chair, Erin Healy, Timothy Johns, Isaac Latterell, Tony Randolph, Rebecca Reimer, Ray Ring, and Lynn Schneider.

Staff members present included L. Anita Thomas, Principal Legislative Attorney; Sakura Rohleder, Fiscal and Program Analyst; Tamara Darnall, Chief Fiscal and Program Analyst; and Randy Stockwell, Network Administrator.

NOTE: For the purpose of continuity, the following minutes are not necessarily in chronological order. All referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available at sdlegislature.gov.

Opening Remarks

Senator Curd welcomed everyone to the meeting and provided background information regarding the creation of the committee and the scope of the committee's work. He said there were many people in need of assistance as a result of COVID-19. He said the newly created interim joint committees will allow the Legislature to hear about those needs and ideas for assistance.

Representative Greenfield thanked the individuals attending in person and online. She said everyone has been affected by the pandemic.

Overview of the Uses of the Federal COVID Funds

Ms. Tamara Darnall, Chief Fiscal and Program Analyst, Legislative Research Council, provided an overview of the uses of the federal COVID funds. Ms. Darnall shared COVID information available on the Bureau of Finance and Management website: bfm.sd.gov. She said approximately \$114.5 million of the Coronavirus Relief Funds allocated to this state have been spent. She said, with obligated funds estimated to be in the range of \$447 to \$532 million, there remains available approximately \$603 to \$608 million. Ms. Darnall shared the federal guidance available from the U.S. Department of the Treasury. She said that can also be found on the bureau's website at bfm.sd.gov/covid. She said this guidance should be reviewed before any COVID dollars are spent.

Ms. Darnall discussed the Joint Committee on Appropriations Small Business COVID Interruption Grant Program framework. She said this program would provide approximately \$400 million of Coronavirus Relief Funds to qualifying businesses. She said applications would be accepted from October 12-23, 2020.

Public Testimony

Mr. Wade Pogany, Executive Director, Associated School Boards of South Dakota, recommended that school districts be provided with additional funds. He said school districts incurred costs that are two to three times greater than the amounts they received from the Elementary and Secondary School Emergency Relief Fund. He said an additional \$75 million from the Coronavirus Relief Fund has been used to backfill the costs that school districts have already incurred. He also recommended that legislation be considered to protect schools from COVID-related litigation costs. He said insurance companies will not cover workers' compensation claims or liability issues related to COVID-19.

Mr. Rob Monson, Executive Director, School Administrators of South Dakota, recommended a short-term change in the manner that student enrollment is calculated, for purposes of determining state aid. He said the student count is determined on the last day of September. He said student enrollment has changed due to the pandemic. He said it would be appropriate to utilize the higher of this year's enrollment count or last year's count. He also recommended funding for educational cooperatives. He said educational cooperatives did not receive direct funding from the Coronavirus Aid, Relief, and Economic Security Act. However, he said, many school districts rely on the cooperatives for services such as occupational therapy and speech pathology. He recommended that the committee consider direct financial assistance to the cooperatives in the amount of \$20 per student.

Mr. Nick Wendell, Executive Director, South Dakota Board of Technical Education, explained the efforts that have been made at technical colleges to ensure safety. He said he supported Mr. Monson's recommendation regarding a more financially beneficial determination of student enrollment at the technical colleges.

Mr. Mike Cartney, President, Lake Area Technical College, said Lake Area Technical College was allocated \$1.7 million from the Coronavirus Aid, Relief, and Economic Security Act. He said half of that was used for students' emergency financial aid and half was used for cleaning, additional staff, and technologies. He recommended additional funding for personal protective equipment. He said technical colleges require such both for combatting the virus and for various healthcare programs, such as nursing. He supported the prior stated recommendations regarding the manner of most beneficially determining student enrollment and he recommended an extension of the federal funding deadline, which is currently set at December 30, 2020. He said COVID-19 testing contracts have a length of one year and funding will be required beyond the December 30th deadline.

Mr. Mitch Richter, Lobbyist, United School Association of South Dakota, supported prior recommendations regarding the manner of most beneficially determining student enrollment, providing districts with immunity from COVID-related litigation costs, and providing funds to educational cooperatives.

Ms. Dianna Miller, Lobbyist, Large School Group, said that school districts are working with the Governor's office and the Department of Education to extend the deadline for using COVID relief funds.

Mr. Loren Paul, President, South Dakota Education Association, recommended providing school districts with resources and funding so they could follow guidelines issued by the Centers for Disease Control and Prevention; ensure that all students have equitable access to the internet and laptops; ensure that academic and mental health supports are available to students; offer paid leave during COVID-related closures; and help students who have fallen behind academically.

Ms. Leslie Crow, Teacher, Todd County School District, said that the mental health of children should be a priority and that barriers faced by families on reservations should be addressed. She said these barriers include a lack of internet access, increased risks of exposure to COVID-19 as a result of multi-generational familial living arrangements, and the inability to pick up meals due to inadequate means of personal transportation.

Ms. Florence Thompson, President, South Dakota Parents Involved in Education, said providing funds so that school districts can hire lawyers to respond to COVID-related litigation is a bad idea. She said schools that remain fully open and operational should be prioritized for additional state funds.

Ms. Lorraine Besmer, Self, Rapid City, voiced her concern regarding mandates to wear masks and said that funds to provide food and lodging for technical college students are unnecessary.

Mr. Ross Garelick-Bell, Lobbyist, Yankton Sioux Tribe, said the biggest concern for the Yankton Sioux Tribe is the acquisition of personal protective equipment for students. He said most of the children in the tribe go to Wagner Public School, which mandates masks. He said, if masks are mandated, they should be provided to students. He also said there is a need for additional computers and additional funding for tribal colleges. He said the funding received by the colleges is limited with respect to how it may be used. He said it may not be expended on students.

Mr. Jason Cooke, Vice Chairman, Yankton Sioux Tribe, agreed with Mr. Garelick-Bell that the tribe needs assistance to acquire more personal protective equipment and to increase internet access for students.

Additional written testimony was submitted to the committee prior to and 24 hours after the meeting (*See the supplemental document to the minutes*).

Committee Questions

Representative Latterell asked Mr. Pogany about limiting COVID-related lawsuits. Mr. Pogany said COVID-related litigation is a growing concern in school districts across the country.

Senator Heinert asked Mr. Pogany about leave policies for teachers and the struggle to find substitute teachers for those who are quarantined or have COVID-19. Mr. Pogany said federal legislation provided for an additional 14 days of paid leave. He said this does not impose a significant budget concern. However, he said, the teacher shortage continues to be a serious concern.

Senator Heinert asked Mr. Pogany about the financial impact of having to provide internet connectivity or technological devices in school districts that decided to educate their students remotely. Mr. Pogany said that is an issue. He said the Department of Education is working on connectivity projects. However, he said, the projects are occurring in only limited areas.

Senator Schoenfish asked Ms. Darnall about the deadline to spend the federal dollars that school districts have received and restrictions on eligible expenditures. Mr. Darnall said dollars received through the Elementary and Secondary School Emergency Relief Fund must be spent by September 30, 2022. She said Coronavirus Relief Funds must be spent by December 30, 2020. She said the funds must be spent on COVID-related expenses. She said there is no reporting requirement for monies received from the Coronavirus Relief Fund. Senator Schoenfish said he was concerned about the lack of required documentation. He said there should be a reporting requirement at the state level, so people know how the school districts are spending the dollars.

Representative Healy asked Mr. Paul whether testing to assess losses in proficiency were conducted, and whether resources were available to help students catch up academically. Mr. Paul said testing was conducted to measure proficiency. He said, normally, mentoring is provided to students who experience a loss in proficiency. He said, this year, there has been a drop in enrollment for mentoring.

Senator Steinhauer asked Mr. Monson if he has any recommendations for funding educational cooperatives. Mr. Monson suggested direct funding in the amount of \$20 per student. He said that would cost the state approximately \$780,000.

Senator Steinhauer asked Ms. Darnall whether the schools must use the \$500 per student from the Coronavirus Relief Fund before using dollars allocated through the Elementary and Secondary School Emergency Relief Fund. Ms. Darnall said, if the Legislature were to increase the financial aid to school districts, the COVID-related dollars would have to be subtracted from the increase. She said dollars allocated to school districts from the Coronavirus Relief Fund must be used for COVID-related responses.

Senator Smith asked Mr. Pogany for a cost estimate regarding potential COVID-related litigation. Mr. Pogany said that litigation is usually costly and several million dollars should be set aside for that purpose.

Committee Discussion and Recommendations

Senator Jensen said about 2000 students from the Rapid City Area Schools, did not return to school. He said their parents opted for alternative education. He said vouchers could be used to assist parents with relocating their children in alternative settings.

Senator Heinert said a special session should be called so the Legislature can act on any policy recommendations made by the interim joint committees.

Senator Heinert said additional financial assistance should be given to school districts so services can be provided to exceptional children, especially in the rural areas. He said alterations in the manner that student enrollment is determined should be made so that a higher student count is reflected.

Senator Steinhauer said the following should be recommended:

- 1) Allow school districts to use the higher of last year's or this year's student enrollment count;
- 2) Provide financial assistance for educational cooperatives in the amount of \$20 per student;
- 3) Provide financial assistance for the pursuit of alternative education in the amount of \$500 per family; and
- 4) Provide additional financial assistance to school districts in the amount of \$200 per student and impose reporting requirements and an expenditure deadline of December 30, 2020.

Representative Greenfield said there would have to be a method of verification to ensure that families who receive \$500 for alternative education actually expend the money for that purpose.

Senator Schoenfish said educational cooperatives should receive financial assistance.

Representative Latterell said he supported providing financial assistance to families that incurred expenses in order to provide education for their children during the COVID pandemic.

Representative Deutsch said he supported the recommendations made by Senator Steinhauer and said that technical colleges and other vocational schools should also be part of a financial assistance program.

Representative Randolph said he supported the recommendation to give \$500 to families that incurred expenses in order to provide education for their children during the COVID pandemic. He said families could be trusted to properly expend such dollars. He said the money is in fact their tax money.

Senator Smith said he supported providing mental health services to children going through difficult times.

Representative Johns and Representative Randolph said that a policy to provide immunity from COVID-related lawsuits is a better idea than a litigation fund.

Representative Latterell moved, seconded by Senator Jensen, to recommend a grant program in the amount of \$500 per student for COVID-related expenses and economic impacts.

Representative Ring said this was a wide-open grant. He said it should be limited to families who chose to educate their children remotely.

Senator Steinhauer made a substitute motion, seconded by Senator Heinert, to recommend that the Joint Committee on Appropriations develop a framework for a financial aid program to provide up to \$500 to families that choose alternative education options. The motion failed on a roll call vote with 7 AYES; 7 NAYS; 8 EXCUSED. Voting AYE: Jensen, Smith, Steinhauer, Deutsch, Latterell, Randolph, and Schneider. Voting NAY: Heinert, Healy, Johns, Ring, Schoenfish, Greenfield, and Curd. EXCUSED: Bolin, Brunner, Marty, Olson, Rasmussen, Reimer, Steele, and Wiese.

The committee then acted on Representative Latterell's motion.

The motion failed on a roll call vote with 4 AYES; 10 NAYS; 8 EXCUSED. Voting AYE: Jensen, Smith, Latterell, and Randolph. Voting NAY: Heinert, Steinhauer, Deutsch, Healy, Johns, Ring, Schneider, Schoenfish, Greenfield, and Curd. EXCUSED: Bolin, Brunner, Marty, Olson, Rasmussen, Reimer, Steele, and Wiese.

Adjournment

The Interim Joint Education Committee adjourned at 12:15 PM.