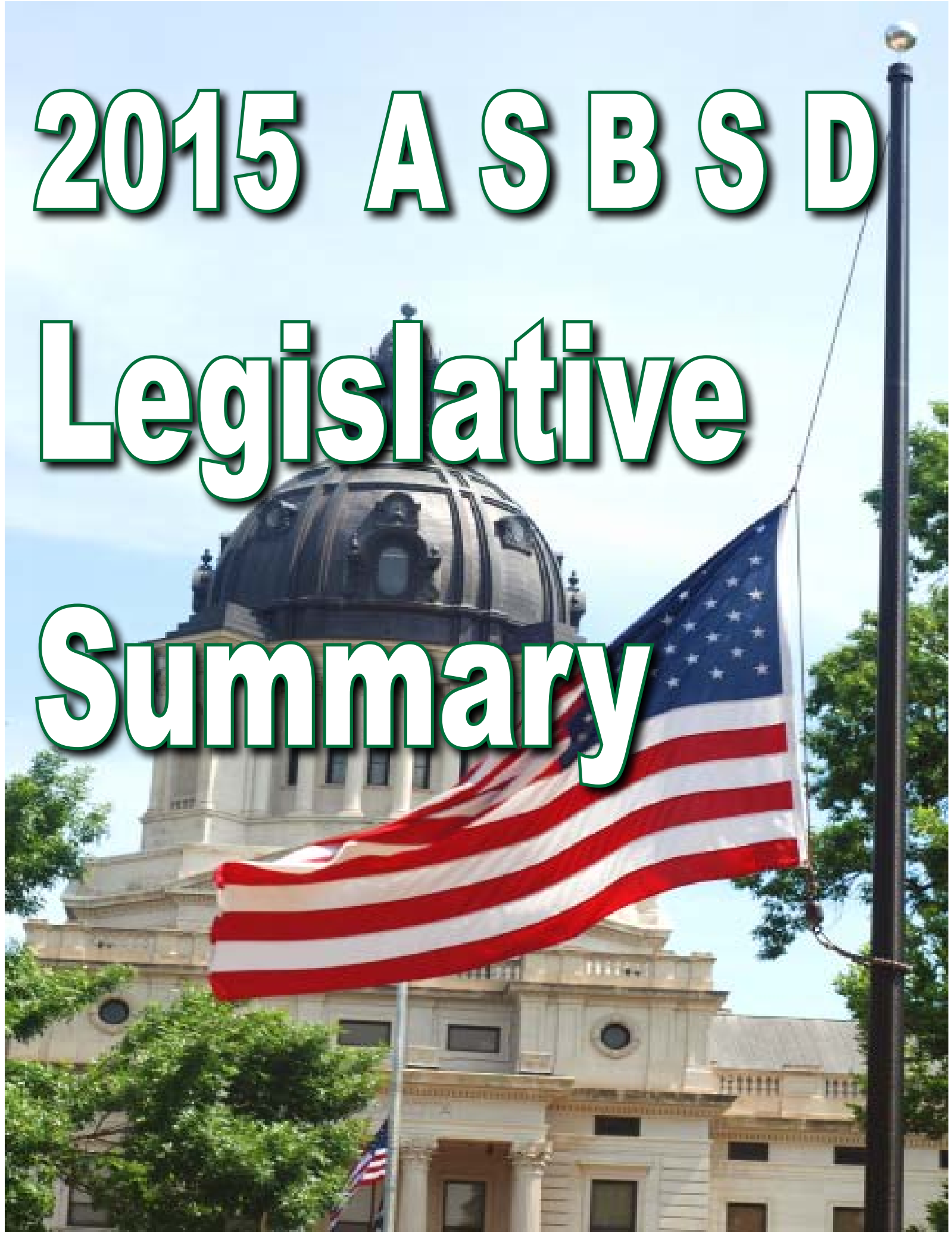


2015 A S B S D

Legislative

Summary



Executive Director's Message



DR. WADE POGANY
ASBSD EXECUTIVE DIRECTOR



With the 90th Legislative Session behind us, it's time to make sense of what transpired.

It was a busy session; intense at times, but we spent most of our time just trying to hang on to what we have. Whether it was trying to kill voucher bills, find a solution to the capital outlay issue or stopping anti-common core legislation, much of the lobbying was about preserving public schools.

Education is always a big topic at the Capitol and our legislative team tracked over 115 bills this session and testified on roughly half of them.

When budget projections came in lower than the Governor proposed we knew just keeping the 2 percent increase in the PSA would be a challenge. The end result was a move from \$4,781 to \$4,877 per-student; given the budget revenue that is a win for schools.

A big result of the legislative session was the creation of the Blue Ribbon Task Force on Education. Governor Daugaard and legislative leaders announced the task force in February as a response to the growing concern about the teacher shortage.

We are optimistic an in-depth study will yield recommendations and solutions, but we also need to keep in mind that solutions may mean a give and take from schools and policy makers.

A few new laws will change some of your local school policies and Director of Policy and Legal Services Gerry Kaufman and I are working on a summary of the statutes that could impact some of the policies you have.

Our report, which will be distributed later this month, will give you recommendations for changes you will need to make in your policies because of changes in statutes.

Even though the session is over we need to begin to strategically plan for next year. We know the capital outlay and property tax issue is not resolved, we know a push for vouchers to private schools will come back and we know the issue of the SDHSAA's transgender student participation policy will continue

So, let's begin to think about our collective response to these topics.

An important part of continuing to develop relationships with legislators is to thank them for their work. We need to continue to inform our elected officials about the challenges schools face and advocate our positions, but when they help us we **MUST** thank them.

Legislative Action Network members, and board members alike, should be proud of their work. When we called on your grassroots lobbying efforts you came through. Thank you so much for your dedication.

We hope this summary of the 90th Legislative Session is helpful.

Funding Summary

Two percent increase in place despite low revenue projections

Legislators approved **Senate Bill 53**, which provides the proposed two percent increase to the state aid formula and brings the per-student allocation to approximately \$4,877 for the 2015-16 school year, but not after some debate, and handwringing, about an adjustment to the funding formula.

The formula will now include the costs of school technology, assessment and the sparsity factor, which means taxpayers will help pay for the statewide initiatives, but funding will not be reduced.

The inclusion of the three costs was the mechanism by which Gov. Dennis Daugaard used to increase state aid from the statutorily required 1.5 percent to two percent. Rolling the three initiatives into the formula saves the state \$2.6 million.

PER-STUDENT ALLOCATION (COMPARING 1.5% TO 2% INCREASES)

	1.5% (Statutorily Required)	2% (Passed by Legislature)
PSA	\$4,853 (\$72 increase)	\$4,877 (\$96 increase)

Throughout session, proponents of the adjustment noted the formula currently includes the costs of the small school adjustment and limited English proficiency funding, thus putting the new additions in line with current practice.

Opponents of the change objected to the inclusion of the costs into the formula because they felt it placed an additional burden on the state's property taxpayers, who fund approximately 47 percent of the state aid formula through local effort.

Initially, the House voted to amend the bill by removing sparsity funding and assessment costs from the formula, but ultimately the bill was returned to its original form because lower than expected revenue projections left little wiggle room for change.

"Schools are in need of increased funding and whether or not we agree with the method used to get the two percent increase, the additional \$24 per-student was essential," ASBSD Executive Director Wade Pogany said.

PSA INCREASE LAST FIVE YEARS

YEAR	BASE PSA	CHANGE
2011-12	\$4,390	-\$415 (-8.6%)
2012-13	\$4,491	\$101 (2.3%)
2013-14	\$4,626	\$135 (3%)
2014-15	\$4,781	\$155 (3.35%)
2015-16	\$4,877	\$96 (2%)

Funding Summary

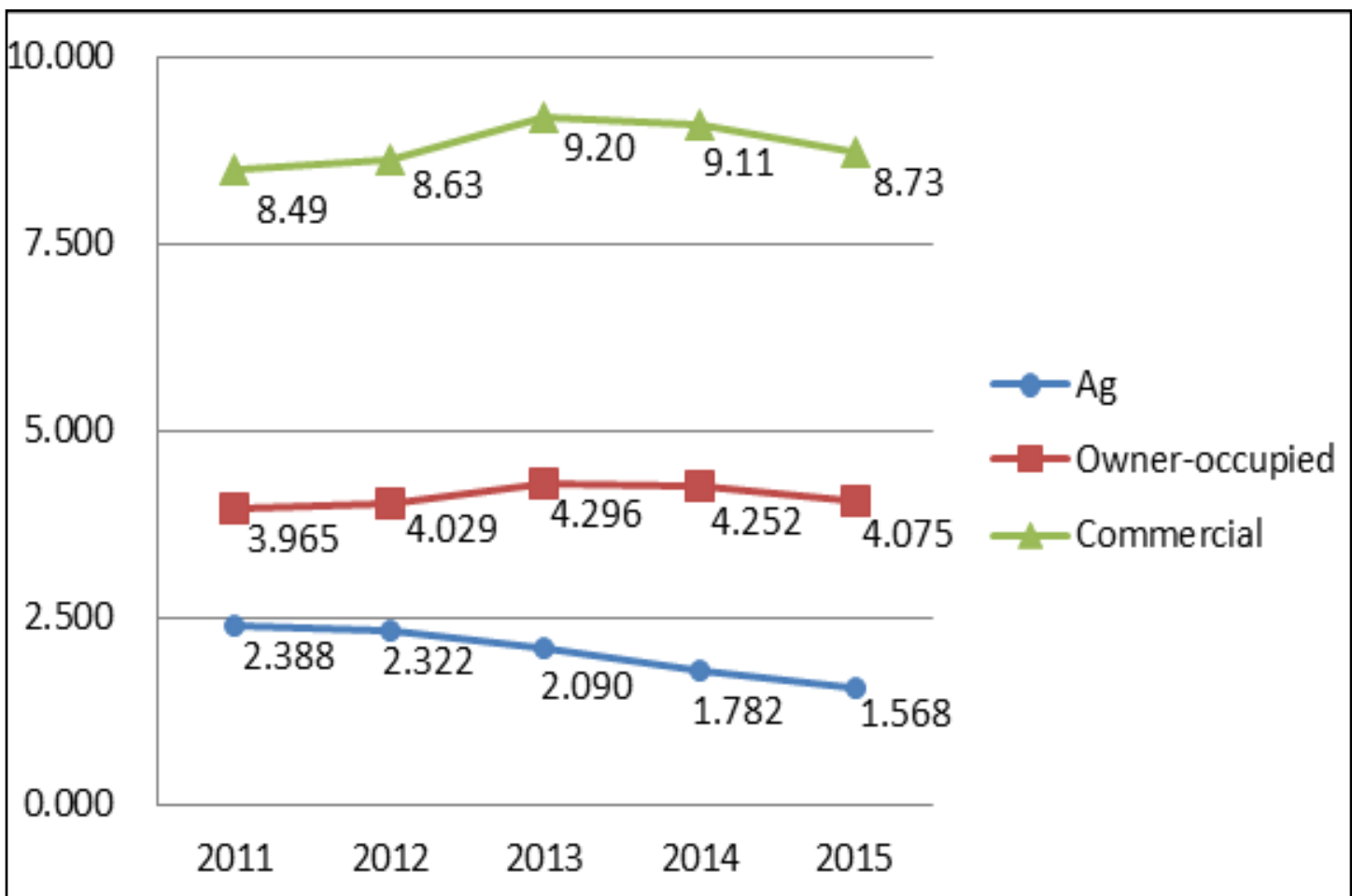
Tax levies adjusted

SB 53 also set the general fund tax levies for school districts.

The commercial levy will be set at \$8.72 per thousand dollars of valuation, down from \$9.10, the agricultural levy will be set at \$1.56 per thousand dollars of valuation, a decrease of 22 cents, and the owner occupied levy will be set at \$4.07 per thousand dollars of valuation, an \$0.18 decrease.

The new levy levels accompany the bill to support the Cutler-Gabriel share of funding between the state and local effort, which is expected to be approximately 54 percent and 46 percent, respectively.

Legislators also passed **Senate Bill 54**, which provides the proposed increase in state aid for schools, changes the maximum level of the special education tax levy, adjusts the funding for disability levels and adds the South Dakota School for the Blind and Visually Impaired to local need calculation at the statewide level. The tax levy for special education will be set at \$1.40 per thousand dollars of valuation.



Capital Outlay

Change doesn't come to CO fund

As the topic that dominated the discussion leading into and the first weeks of legislative session there was no change made to a school district's capital outlay fund.

The 2014 legislative interim included many discussions on the growth of the capital outlay levy between members of a work group formed by the governor's office consisting of legislators and representatives from various education groups, including ASBSD Executive Director Wade Pogany and First Vice President Eric Stroeder, and members of the legislature's Ag Land Task Force.

Those discussions ultimately lead to the introduction of **House Bill 1207**, which revised certain provisions concerning the school district pension fund and capital outlay fund tax levies, to provide property tax opt-out procedures for the capital outlay levy, and to revise the per student allocation.

Despite the months of discussion, HB 1207 didn't even survive its first committee hearing as members of the House Taxation committee defeated the bill on a **9-6 vote**. ASBSD supported the bill.

The change proposed limiting revenue growth on the CO fund to three percent or inflation, whichever is higher, plus new construction, instituting a base levy for capital outlay of \$1.50 per \$1,000 valuation with schools at their 2014 capital outlay level, but the levy would drop on a gradual basis due to the limit on revenue. HB 1207 would have added an additional \$72 per-student to the per-student allocation.

Two bills – Senate Bill **6** and **7** – which did similar things to the capital outlay fund as HB 1207, were tabled early in session to make way for the proposal introduced in HB 1207. ASBSD opposed the bills.

House Bill 1218, which would have allowed any school district to designate up to \$0.25 of their capital outlay levy to fund a post-secondary technical institute, passed the House, but was tabled by the Senate Education committee at the request of its prime sponsor. ASBSD was monitoring the bill.

The last of the capital outlay related bills to lose its bid for passage was **Senate Bill 183**, which lowers the percentage of supporting votes needed from 60 to 55 percent in elections on capital outlay certificates and bonds. SB 183 lost in the Senate on a **10-22 vote**. ASBSD supported the bill.

Senate Bill 191, which revises certain provisions in a program for capital outlay certificates and lease purchase agreements of school districts, was the lone CO bill to make it through legislative session.

SB 191 designates the South Dakota Health and Educational Facilities Authority Intercept Program as the debtor for capital outlay bonds or certificates issued to schools in order to increase the rating and improve interest rates for a bond or certificate. The program is optional for school districts to use.

A mechanism in the bill allocates a portion of a school district's state aid to the program if they were to default on a payment for the bond or certificate they went through the program to obtain, but Lt. Gov. Matt Michels said the chance of default on payment by a district on the bond or certificate are "next to nil" and the addition of the mechanism is in place to protect the SDHA Intercept Program's rating.

ASBSD supported the bill.

Despite the defeat of most of the CO bills, the discussion on limiting the fund is expected to continue and could be addressed by Gov. Dennis Daugaard's Blue Ribbon Task Force.

Blue Ribbon Task Force

Task Force to study teacher shortage

Gov. Daugaard announced in February his office would create the Blue Ribbon Task Force charged with solving the teacher shortage, reviewing school funding and examining student achievement.

“Assembling the task force shows us that Gov. Daugaard is listening to the education community, legislators and the public that there is indeed a crisis in education,” ASBSD Executive Director Wade Pogany said.

Studies released by SASD have highlighted the large gap between potential retirees working in schools and potential teaching candidates enrolled in education programs in South Dakota’s post-secondary institutes, the role low teacher pay has played in the number of teachers leaving the profession and the number of classrooms across the state left without a teacher.

“There’s been a lot of data accumulated by SASD, ASBSD and the education community that can be brought to the table,” Pogany said.

The first wave of appointments were recently made to the Blue Ribbon Task Force, which will be co-chaired by Rep. Jacqueline Sly and Sen. Deb Soholt; each of whom chaired their respective chamber’s education committee during the 2015 legislative session.

Joining Rep. Sly on the Task Force from the House is Rep. Justin Cronin, Chair of the House Appropriations committee, Rep. Paula Hawks, a member of the House Education committee, Rep. Mark Mickelson, Speaker Pro Temp, and Rep. Steve Westra, Assistant Majority Leader.

Senators joining Sen. Soholt on the Task Force, include Sen. Corey Brown, President Pro Temp, Sen. Troy Heinert, Assistant Minority Leader, Sen. Billie Sutton, Minority Leader, and Sen. Craig Tieszen, Chair of the House Judiciary committee.

Secretary of Education Melody Schopp, Gov. Daugaard’s Chief of Staff Tony Venhuizen and Commissioner of the Bureau of Finance and Management Jason Dilges were also appointed to the Task Force.

Additional Task Force members, who will include school board members, administrators, teachers and parents, will be appointed following input meetings with current Task Force members. The input meetings have not been scheduled at this time.

The full Blue Ribbon Task Force will meet through the summer and present recommendations in the fall.

“We need all stakeholders in education to collaborate on these issues and find solutions,” ASBSD Executive Director Wade Pogany said. “Our schools need long-term fixes in teacher pay and school funding and we’re optimistic the Blue Ribbon Task Force will provide them.”

ASBSD will provide updates on the task force as they become available.



Watch ASBSD Executive Director Wade Pogany, SASD Executive Director Rob Monson and Secretary of Education Melody Schopp recap the 2015 legislative session at www.sasd.org or at <https://vimeo.com/123438726>.

Teacher Pay

Solving the teacher shortage is likely to be the top priority for the Blue Ribbon Task Force, with ways to improve teacher pay being the driving force behind the conversation. Fewer than half of the bills introduced during legislative session that either directly or indirectly addressed improving teacher pay were signed into law.

Monetary incentive bill clarifies questions

Senate Bill 132, which would allow districts leeway to offer a signing bonus, moving expenses, or tuition reimbursement to a teacher employed in the school district, made its way to Gov. Dugaard's desk after a bit of an arduous journey.

"School boards are having trouble finding teachers and the bill gives them a few more tools to attract them to their district," Pogany said.

School Administrators of South Dakota and the Department of Education joined ASBSD and Rep. Jacqueline Sly, the bill's prime sponsor, in supporting testimony of SB 132.

The bill does not remove the negotiating rights of teachers.

Amendments inserting interpretable language in the negotiation of the financial incentives and removing a clause allowing districts to match or exceed a contract offer made to a teacher in their district from another entity without having to reopen negotiations.

Scholarships benefitting education majors funded

Legislators approved two bills that appropriated funds for two scholarship programs benefitting students in education programs.

- **Senate Bill 91** makes an appropriation of \$150,000 to the South Dakota need-based grant program;
- **Senate Bill 92** makes an appropriation of \$150,000 to the South Dakota critical teaching needs scholarship program.

Teacher Pay

Five pay proposals deferred

House Bill 1092

ASBSD Position: Support

HB 1092 encouraged individuals working as paraprofessionals in school districts with 600 or fewer students enrolled and at least one teaching position unfilled the previous year to enroll in a post-secondary program, earn a bachelor's degree in education and return to the district to teach.

Rep. Thomas Holmes said the program would help alleviate the teacher shortage many rural school districts are facing. HB 1092's merits were lauded, but ultimately it fell due to uncertainty in available funds and potential logistical issues in its implementation.

House Bill 1114

ASBSD Position: Oppose

HB 1114 would have required school districts with general fund balances of 50 percent or greater during the previous fiscal year to compensate teachers for continuing education expenses and for renewing teachers' certificates.

Rep. Jim Bolin, the bill's main sponsor, claimed to have introduced the bill "to help the teachers of this state," but acknowledged the bill brought light to what he referred to as a "stockpile" of money in school reserves and was a "counterintuitive approach" and "backdoor pay raise" for teachers.

Pogany asked what question the bill is trying to answer, "teacher pay or fund balances?" and invited a conversation with the legislature on school fund balances, if that's what is needed.

House Bill 1115

ASBSD Position: Support

HB 1115 would have allowed school districts to raise their pension levy by \$.05, which is currently set and will remain at \$.30 per \$1,000 of valuation. Pogany testified in support of the bill during its committee hearing, saying school boards "want to benefit those teachers as best we can."

Opponents of the bill cited the burden of a property tax increase as their hesitation in supporting HB 1115.

Jim Terwilliger of the S.D. Bureau of Finance and Management testified in opposition of the bill, but did note districts can make local decisions to use opt-outs and raise local property taxes to address pension issues, if needed.

House Bill 1204

ASBSD Position: Support

HB 1204 would have provided a limited number of scholarships for students intending to become K-12 educators in South Dakota. The bill was withdrawn by its prime sponsor, Rep. Don Haggar.

Senate Bill 144

ASBSD Position: Support

SB 144 called for the creation of a tuition reimbursement program for certain teachers teaching in rural school districts – defined as a district located in a town with a population less than 10,000 – who teach in the district for five years.

Funding for the program would have been generated from South Dakota's future fund and also allowed private donations.

Transgender policy repeal bills defeated

- ASBSD plans to provide sample policies

Controversy came with discussion about the South Dakota High School Activities Association's policy on transgender student participation in sports as three bills – with two sharing the same concept – were introduced during session.

House members initially passed two bills related to the policy:

- **House Bill 1161** limited the rule making authority of SDHSAA in adopting policies related to sexuality or gender identity;
- **House Bill 1195** declared the SDHSAA's transgender participation policy void.

Proponents of the bills argued SDHSAA had overstepped its bounds in the adoption of the policy, which some said promoted a direct contradiction of a student's birth certificate.

"The (SDHSAA) didn't need to step into this quagmire," Rep. Steven Haugaard, prime sponsor of HB 1161, said.

Senate Education committee members voted to defer each bill the 41st legislative day, which marked the end of the line for HB 1161, but not for the concept introduced in HB 1195.

Mere hours after the defeat of HB 1195 in the Senate, House members houghoused and passed **Senate Bill 140**, which had the same focus as HB 1195. SB 140, like its predecessor, did not survive as a legislative conference committee could not come to a compromise on the proposal.

ASBSD opposed the bills.

Executive Director Wade Pogany said school boards were concerned the proposals, especially in HB 1195 and SB 140 could put them in a precarious spot.

"It's a sensitive issue. This issue will always fall back on the school boards," Pogany said during committee testimony. "We need to make sure we don't set school boards up for failure."

Pogany informed legislators ASBSD is in the process of drawing up sample school board policy that school boards could choose to adopt to help guide them in the process of accommodating a transgender student.

ASBSD will supply the sample policy recommendations upon their completion.

Open Meetings Law

Two ‘Sunshine’ statutes pass, two don’t

South Dakota’s sunshine laws welcomed two new additions to its section of codified law, while two other proposals were unsuccessful in their bid to become law.

House Bill 1091

ASBSD Position: Monitor

HB 1091 requires the meeting minutes of a school board or other government subdivisions include a record of how each individual of the body voted on an issue.

Rep. Jim Bolin, the bill’s sponsor, said the bill is “not just about transparency, but about ease of finding information.” He also noted meeting minutes “occasionally” do not include the listing of how each member of a governing body voted or it’s placed in addendum that can be difficult to find.

House Bill 1125

ASBSD Position: Support

HB 1125 requires a governmental entity to post their meeting agenda in a public place for a continuous 24-hour period prior to the meeting. The word “continuous” is added to the law.

ASBSD Director of Policy and Legal Services Gerry Kaufman testified in favor of the bill on behalf of the Association, saying school boards believe the bill is important because it provides guidance and clarification to law for government subdivisions to follow when posting meeting agendas.

House Bill 1153

ASBSD Position: Oppose

HB 1153 would have opened the texts and emails of school board members and other political subdivision representatives. The bill made it through the House chamber, but was defeated in the Senate State Affairs committee.

Proponents of the bill said it would extend and clarify open meeting law in the realm of new technology. ASBSD opposed the bill.

ASBSD Lobbyist Dick Tieszen said the bill fogged the issue of what’s a public meeting and what’s a public record and bill could lead to an invasion of privacy.

“I am fearful that...we’re fogging the issue of what’s a public meeting and what’s a public record,” ASBSD Lobbyist Dick Tieszen said, adding the bill could lead “to an invasion of personal privacy.”

Suspected violations of the state’s open meeting laws are referred by a district attorney to the South Dakota Open Meeting Commission, who then makes a decision on whether there was in fact a violation.

Tieszen noted the OMC does not “decide issues” of public record, which, under HB 1153, would include text colloquy, thus muddying the open meeting violation determination because the text colloquy would be the sole piece of evidence the OMC would base a decision on.

House Bill 1167

ASBSD Position: Monitor

HB 1167 would have allowed local governing bodies to post certain information on a designated website in lieu of publishing in a publication.

The bill was deferred to the 41st legislative day by members of the House Local Government committee. Opponents to the bill went so far as to call it an “anti-right to know bill” and said the financial strain on government subdivisions to have the minutes and notices published in print wasn’t excessive.

Proponents argued the funds used to publish the information could be better utilized and the transition would be smooth for the government entity to post the information online.

“We can do this tomorrow with no additional costs,” Pogany testified during the bill’s committee hearing.

Subsidy for non-public school scholarships?

Public dollars will not be used for private school scholarships

The question about whether or not public dollars should be used to fund private school scholarships was asked and answered during the legislative session, but may not have ultimately been decided.

Senate Bill 189 would have provided a tax credit to insurance companies contributing money to an organization that provides funding to cover the cost of a student enrolling in a private school and for instructional supply grants for teachers, including home school providers.

The bill called for the creation of a program, which could have used up to \$4 million from the general fund in its first year and, with a 25 percent inflationary growth clause attached, was predicted to have grown to utilize over \$130 million in state dollars to fund private institutions.

ASBSD opposed the bill.

“If you vote for (Senate Bill) 189, the message you’re sending is: private school needs are greater than public school needs,” ASBSD Executive Director Wade Pogany testified during a committee hearing.

Pogany also noted the state constitution prohibits the use of state dollars to fund a credit program for secular schools.

Proponents of the bill argued the program could put money in the hands of public school teachers through the \$250 instructional grant, but did not mention the grants would be awarded through an application process open to private and home school teachers, as well.

Proponents also said the bill would eventually save tax payers money because the program would open the door for more students to enroll in private school meaning fewer dollars needed for state aid due to smaller enrollments at public schools and a break for local taxpayers funding the state aid formula.

SB 189 would have been built into the state budget meaning it would be a determined cost each year and thus not up for adjustment by state government or legislative appropriators.

Jim Terwilliger of the South Dakota Bureau of Finance and Management disagreed with the assertion it would save tax payers money in the long run because the insurance company tax is one of the largest sources of revenue for the state’s general fund and the 25 inflationary clause would result in “quite a loss.”

“I just don’t see how it could be a net tax savings to tax payers,” Terwilliger said.

The bill had a long journey to its ultimate demise, which included being sent to the floor by both Senate and House committees that reviewed it to their respective floors without recommendation, passing the Senate, losing its attempt to be placed on the House’s debate calendar and a motion to reconsider that never actually resulted in a vote.

The journey may signal a potential return of the proposal next year and Pogany cautioned all interested parties to remain vigilant of a return.

“We need to be watchful of this idea gaining traction and coming back next year,” Pogany said.

Legislative Summary

Passed and signed: Other key K-12 bills

House Bill 1059

ASBSD Position: Monitor

Introduced at the behest of the state's Department of Health as a result of changes made to HIPAA regulations, the bill allows schools and other entities to access immunization records in the event a parent or guardian would not have them readily available.

It was noted in previous hearings of the bill that in the 18-years the DOH immunization system has been operational fewer than 200 people have opted not to share their children's immunization records and there have been breaches in the system's security.

House Bill 1097

ASBSD Position: Monitor

Introduced in response to the Big Stone City School District's recent dip below the 100-student threshold, HB 1097 allows certain school districts meeting specific criteria to remain open despite dropping below the 100 student enrollment threshold.

The bill adds the following criteria to state law:

"For any school district that does not operate a high school and contracts with an adjoining school district in Minnesota to educate its resident high school students, the minimum fall enrollment that the school district must maintain pursuant to this section is not one hundred, but rather is equal to a pro-rated share of one hundred based upon the number of grades offered within the school district."

HB 1097 will not change the intent of the under-100 threshold, but rather applies the enrollment threshold to BSC – K-8 education center – on a pro-rated basis, which would set the level at approximately 69 students.

House Bill 1100

ASBSD Position: Support

HB 1100 clarifies how a vacancy on a school board would be filled, passed the committee and Senate unanimously. Pogany said the bill "cleans up an issue" school boards have faced for several years.

Under HB 1100, a vacating school board member would participate in the process of filling a vacated school board seat, when:

- No individual is elected to the vacated seat;
- An elected school board member fails to meet the qualifications necessary to serve on the school board;
- When a school board member resigns prior to the end of the term which they were elected to.

The bill would also clarify instances when only the remaining school board members would fill a vacated school board seat. Those instances include, when a board member:

- Dies;
- Is removed from the board;
- Ceases to be a resident of the school district or representation area where elected;
- Is convicted of any infamous crime or of any offense involving a violation of the member's official oath;
- Has a judgment obtained against the member for breach of the member's official bond;
- Is incapacitated and is unable to attend to the duties of the position;
- Assumes the duties of an office incompatible with the duties of a school board member.

Legislative Summary

Passed and signed: Other key K-12 bills

House Bill 1101

ASBSD Position: Support

HB 1101 strengthens a school district's local control over curriculum and method of instruction. Sen. Bruce Rampelberg said the bill would "make it clear" that the current practice of school districts making curriculum and instruction will stay in the control of the district in the future.

House Bill 1137

ASBSD Position: Monitor

HB 1137 excludes the passing time between classes in the number of hours required in the school term for students in the 6th-12th grades. Rep. Jacqueline Sly, the bill's prime sponsor, said hours are counted in a "wide variation from district to district" and the bill would institute uniformity in the calculation of school hours.

House Bill 1148

ASBSD Position: Support

HB 1148 requires school districts to report their month-end cash balances in the fiscal year for the general, capital outlay, pension and special education funds. The bill aims to capture the changes of a school district's fund balances throughout the fiscal year instead of the one-time snapshot of the balances taken at the end of the fiscal year.

Senate Bill 70

ASBSD Position: Monitor

SB 70 requires the person or persons who witnessed the first disclosure or evidence of child abuse are available when the initial report of the abuse is made to authorities. An amendment to the bill opted for language requesting the person or persons who were present at first disclosure or witness of the abuse be available at the time the initial report of the abuse is made.

Sen. Deb Soholt said the impetus for the bill, which originated from the Jolene's Law Task Force, was "to connect the dots" immediately upon report or witness of child abuse. Proponents of the bill and amendment said the availability of the original witness to assist when the initial report of alleged child abuse is recorded is vital.

**2016 SOUTH DAKOTA
LEGISLATIVE SESSION
JANUARY 12 - MARCH 11**