

# **STATE BOARD OF PUBLIC SCHOOL EDUCATION**

## **MINUTES OF MEETING**

**September 25, 2023**

State Board of Public School Education members met in the CTE 15<sup>th</sup> Floor Conference Room at the State Capitol and via Teams on Monday, September 25, 2023. The meeting was called to order by Chairwoman Sonia Meehl at 1:00 pm.

### **State Board Members in Attendance:**

Chair Sonia Meehl  
Board Member Burdell Johnson (left early)  
Board Member Eric Nelson  
Board Member Mike McHugh  
Vice Chairman Josh Johnson

### **State Board Member Present Virtually:**

Superintendent Kirsten Baesler

### **State Board Members Absent:**

Board Member Lyndsi Engstrom

**Others in Attendance:** Administrative Law Judge Timothy Dawson, Allyson Hicks, Shauna Marchus, Robert LaFavor, Dr. Alyssa Martin, Jennifer Carlson, Erin Lacina. There were three guests present for the hearing: Alan Fosness, Mike McNeff, and Pat Brenden.

**Others Present Virtually:** Emily Deschamp, Donna Fishbeck, Karen Migler, Melissa Hamilton, Dustin Hager, Adam Tescher.

### **1. APPROVAL OF MINUTES – June 26, 2023**

Mike McHugh moved to approve the minutes from the June 26, 2023 - regular meeting. Josh Johnson seconded the motion. No discussion. The motion carried unanimously.

### **2. REA AUDIT PRESENTATION: Northeast Education Services Cooperative (NESC)**

Jennifer Carlson, Executive Director shared the NESC's vision and mission, membership, governance, and staff structure. Jennifer Carlson provided the board with the NESC Financial Audit Report and the Revenue and Expenditure Report and explained that Devils Lake School District is the fiscal agent for the NESC. Erin Lacina, Director of Operations and Professional Learning presented the NESC Strategy Map that included their three major objectives, critical initiatives, activities, intended outcomes, and key measures. Erin Lacina also spoke about NESC's successes and provided an extensive list of examples of their network of supports/partnerships and statewide collaborative efforts. Erin Lacina spoke about the NESC impacts and outlined multiple professional development activities, technology services, assistance with achieving school improvement goals, assistance with student achievement data, assistance with curricular offerings, and explained many ways they support the PK12 Education Coordination Council aspirational goals.

Eric Nelson motioned to accept the presentation of the NESC. Mike McHugh seconded the motion. No discussion. The motion passed unanimously.

**3. HOLD A HEARING, DISCUSS, AND TAKE ACTION ON THE APPEAL OF A DENIAL OF ANNEXATION FROM THE BOTTINEAU PUBLIC SCHOOL DISTRICT NO. 1 OF BOTTINEAU COUNTY IN NORTH DAKOTA TO RUGBY PUBLIC SCHOOL DISTRICT NO. 5 OF PIERCE, ROLETTE AND BENSON COUNTIES IN NORTH DAKOTA. (FOSNESS APPEAL)**

The hearing was held Monday, September 25, 2023, beginning at 1:55 pm and was conducted by Administrative Law Judge Timothy Dawson from the Office of Administrative Hearings, pursuant to North Dakota Century Code Chapter 15.1-12. This was an evidentiary hearing for the board to hear testimony and consider other evidence as presented on issues as outlined in the Fosness annexation packets. The annexation packets from Pierce County and Bottineau County were entered into evidence and marked as Exhibit 1. Judge Dawson explained the rules and procedures of the hearing as well as the penalties for perjury. He noted that the board wished to waive the rules of evidence per North Dakota Century Code Section 28-32-24. Only relevant evidence will be admitted at the hearing. He explained that at the close of testimonies, the State Board of Public School Education will make the final decision. If any party does not agree with the final decision, they may appeal under North Dakota Century Code Chapter 28-32, the Administrative Agencies Practices Act. The proceedings were recorded, and persons testifying were sworn in by Administrative Law Judge Timothy Dawson.

**Emily Deschamp, Bottineau County Auditor and Superintendent of Schools Designee**

Emily Deschamp testified virtually from the Bottineau County Courthouse. She reviewed the information in the annexation packet from the Bottineau County meeting held on March 14, 2023, in the Bottineau County Courthouse regarding the Fosness petition. Emily Deschamp pointed out that the annexation would be for 640 acres. She stated that at the county annexation hearing the Bottineau County committee disapproved the petition with a vote of 3-1 based on the reasons that an equitable resolution or land swap would be in the best interest of the Bottineau Public School District, the loss of the taxable value for Bottineau county, and that there is a possibility of a smaller amount of acres to accomplish the bus route.

Josh Johnson asked Emily Deschamp if she believed the petition included the least amount of land necessary to accomplish the requirements of annexation. Emily Deschamp answered that she did not. She explained that Mr. Fosness was trying to take the whole south half, and she felt only the southeast section would be needed. She stated she feels like there is an excessive amount of acres that are being taken from the Bottineau Public School without offering anything in return.

Josh Johnson asked Emily Deschamp to expand upon the reference in the Findings of Fact that stated there was an equitable solution or land swap. Emily explained that to her knowledge there was a land owner in Pierce County who had stated he was willing to do a land swap.

Chair Meehl asked if that is the only residence on the petitioned property. Emily Deschamp answered that she believes there is another farmstead towards the north of the property proposed to be annexed. Emily stated she was not sure if people lived on that property.

Chair Meehl asked for clarification about the Bottineau School District's land area as referenced on the Pierce County petition, page 10, section E1. Emily stated she would look into that information.

Chair Meehl asked for clarification on the Bottineau County Reorganization Committee's motion to disapprove the annexation and the wording. Allyson Hicks clarified that if you consider the language in the Pierce County packet, it said the motion to disapprove the petition was approved, citing that it was voted against. Allyson Hicks stated she thinks they were referring to voting against the annexation, but the Bottineau County petition worded it differently. Discussion was held about the discrepancies in wording. Allyson Hicks clarified that even if there had been a motion to deny and that motion had failed, there has to be a motion to approve. She stated that if there is no motion to approve with a passing number of votes, the annexation is denied, so there can be a motion to disapprove that passes, or you can just not make a motion to approve, and it has functionally the same result.

Josh Johnson asked for more clarification asking where the closest location of the Rugby school district is to the property in order to be able to accomplish annexation. Allyson Hicks stated that it was difficult to tell from the maps where the property lines were. Emily Deschamp stated that she did not have the answer but recommended Karen Migler, the superintendent of Pierce County, could testify to that information.

Allyson Hicks referenced section C2 regarding bonded indebtedness and stated that no discussion was noted in either county committee's minutes. She asked if bonded indebtedness was discussed or what was the intention of leaving that section blank. Emily Deschamp answered that she was not sure what the intention was of leaving that section blank. Allyson Hicks asked if there was any discussion as to what would happen with the bonded indebtedness that is currently on the property of the Bottineau School District and the new bonded indebtedness of the Rugby School District, and if it would attach. Emily Deschamp answered there was not discussion to her knowledge.

Judge Dawson confirmed there were no other questions from the board, and Emily Deschamp was dismissed.

### **Karen Migler, Pierce County Superintendent**

Karen Migler testified virtually from the Pierce County Courthouse in Rugby. She stated that the Pierce County committee approved the annexation because of bussing for the Fosness children. Karen Migler stated that on the day of the meeting, the Bottineau County Committee felt the annexation could have been done with less land, but the Pierce County Committee still felt that due to bussing for the children it should be approved.

Eric Nelson asked for Karen Migler's understanding if to achieve a contiguous annexation the contention seems to be over the furthest southwest 160 acres. Karen Migler answered yes, she

believes they could have just annexed the east half to be continuous with Rugby.

Burdell Johnson asked for clarification on the acreage. Allyson Hicks answered that it should be 640 acres, not 320 acres, that was a typographical error.

Josh Johnson asked if Rugby Public School provides bussing anywhere outside their school district. Karen Migler answered no.

Judge Dawson confirmed there were no other questions from the board, and Karen Migler was dismissed.

**Testimony In Support:**

**Alan Fosness, petitioner** testified he is a fourth-generation land owner of this farm, and he has been farming this land for 11 years. He explained that originally his family lived in Rugby, so the kids have been in the Rugby School District their whole education and for all their sports, and he assists with the wrestling team in Rugby. He stated he wants his kids to continue to go to Rugby school even though they live in the Bottineau District now. Alan Fosness stated that they live 30 miles from Bottineau School and 20 miles from Rugby School, and the main reason for this annexation is to get the kids on the bus. He testified that he has to drive five miles to a neighbor's yard every morning and afternoon to get the kids on the bus, and that is a hardship for him to get his work done. He also stated he believes it would be best for the kids not to have to get up so early for him to drive them to the current bus stop. He stated he understands there are financial considerations for Bottineau to lose land, but he would like his taxes to go to the district where his kids attend school. He testified that the Rugby School would not go out of district a mile and a half to his yard to get the kids on the bus. Alan Fosness explained that he is the only land owner and that there are no other farms on that property.

Chair Meehl asked if there are any other residences on the 640-acre land proposed to be annexed. Alan Fosness answered no.

Mike McHugh asked if Alan Fosness had any thoughts or had any discussion about moving less land. Alan Fosness answered that he owns more land in the Bottineau District. Alan Fosness stated that he did not make this line and that he is not against taking less land. He mentioned that he had been working at this for a year and didn't want to start the annexation process over. Discussion was held between Chair Meehl and Alan Fosness to clarify the property lines and the different counties involved.

Josh Johnson asked if Alan Fosness could give an explanation about any discussion regarding a land swap. Alan Fosness stated that a land swap was not discussed during the committee meetings. He stated that he has talked to neighbors about a land swap, but they are not able to find two-quarters of the land that are the same value. No one is against it, but he does not feel it is a good option, especially if he has to start the annexation process over again.

Judge Dawson confirmed there were no other questions from the board, and Alan Fosness was dismissed.

**Mike McNeff, Superintendent of Schools in Rugby**

Mike McNeff testified that he recognizes that his school district could drive into other school districts to pick up students, but his district contracts bussing, and it is a precedent to not go into other school districts to pick up students as their routes are long already. He noted that the legislation does not allow to collect beyond the school boundary in your district. He also explained that his district is not looking to expand its boundaries, but he recognized the Fosness kids have been going to Rugby schools since day one, and he stated he wants to support this family. He stated that he does think there is an option to reduce the area being annexed. He explained that there is a road on the east that comes up county line 536 that would allow the bus to access the farmstead which would require less land to be annexed.

Chair Meehl asked for clarification of how many sections Rugby District has in the district stating the petition listed 868 sections. Mike McNeff explained that his district has additional sections in Benson County and Rolette County, so the total is approximately 950 sections.

Chair Meehl asked about Rugby's sinking interest levy of 12.11 mills. Mike McNeff answered that he did not know about those rates but stated that Mr. Fosness would be coming to a district with a high tax levy, the highest in the state.

Mike McNeff testified that they did look into a land swap option, and after a thorough review of land prices and a discussion with the state's attorney in Rugby, they could not find a way to make the swap even. He stated that the higher tax levy in Rugby was a big consideration.

Judge Dawson confirmed there were no other questions from the board, and Mike McNeff was dismissed.

**Testimony in Opposition:****Pat Brenden, Superintendent of Bottineau Public School**

Pat Brenden testified that Bottineau School is not against Mr. Fosness sending his kids to Rugby. He stated he believes it is a parent's right to do what is best for their kids. He explained that the main reason the Bottineau committee is opposing this annexation is because they do not feel it's right to give up 640 acres to get the Fosness kids on the bus. Mr. Brenden stated that when the Bottineau board discussed the land swap, they did feel that it was a better option but to make it work, they would have to swap less than 640 acres. He explained that when he met with the county treasurer, they mapped out from the south of the Bottineau district boundary up to Mr. Fosness' driveway and that would make the annexation work with 25 acres, which would only be a loss of \$107 in tax revenue. With how the annex is currently written to include 640 acres, that would be a loss of \$2,200 per year forever, not just when the Fosness kids are attending Rugby School. Mr. Brenden referred to section C2 in the petition regarding bonded indebtedness and stated that state law says that the county committees and the State Board have to make determinations to exempt the property from bonded indebtedness and the counties did not exempt that property. Mr. Brenden stated that the Bottineau treasurer explained to him that the bonded debt would be approximately \$5,400 and Mr. Brenden believes it would be attached to that property for the next 16 years. He ended by stating that he is not against Mr. Fosness, he just wants to represent his district, and they are against the number of acres.

Chari Meehl asked for clarification on the 13.9 mills of judgment bonding levy. Mr. Brenden answered that is a construction bond, and there are 16 years left of the 20-year bond.

Board Member Burdell Johnson left the meeting.

Mike McHugh asked if Mr. Brenden is opposed to Rugby coming into his district for bussing. Mr. Brenden answered no, he is not opposed.

Alyson Hicks asked if Mr. Brenden can confirm how many sections are in his school district. Mr. Brenden answered 644.

Judge Dawson confirmed there were no other questions from the board, and Pat Brenden was dismissed.

Judge Dawson confirmed there were no other opponents who wished to testify.

### **Mike McNeff, Rugby Superintendent**

Josh Johnson called Mike McNeff back up to the stand. Josh Johnson asked if there were any additional reasons why Rugby Public School chooses not to go outside of the school district for bussing beyond the payments. Mike McNeff answered that has been decided by the district to not go into other districts, and it is part of the current agreement with the contracted bussing company.

Allyson Hicks stated that if this annexation were approved today, it would not go into effect until July 1, 2024. She asked Mike McNeff if he would immediately provide bussing for the Fosness kids or if they would wait until next school year when the annexation is in effect. Mike McNeff answered that they would begin bussing as soon as possible.

Josh Johnson asked if he could verify if Alan Fosness were actively coaching. Mike McNeff answered that yes, he is involved with youth wrestling.

Eric Nelson asked if he knew what the financial impact to Bottineau County would look like per year in dollars for the 640 acres in question. Mike McNeff stated he did not have the numbers, but since his levy is a little higher, he assumed it would be a little higher than the \$2,200 stated by Mr. Brenden.

Allyson Hicks asked if it was his understanding whether or not the bonded indebtedness of Rugby would attach to the property or if Bottineau's would continue to be attached to the property. Mike McNeff answered that he was not at the hearing, but after a conversation with his business manager who was at the hearing, he did not think there was a conversation about this subject. Mike McNeff commented that as his first time going through this process, there should be some legislative adjustments on a better "how to" system for the county committees regarding annexations.

Judge Dawson confirmed there were no other questions from the board, and Pat Brenden was dismissed.

**Alan Fosness, Petitioner**

Chair Meehl recalled Alan Fosness. Chair Meehl asked if he understood that because the Bottineau district, to which his land is currently connected, has 13.93 mills of bonded indebtedness if this board were to approve his petition, the board could require you to continue to pay that 13.93 mills until it is paid off. Alan Fosness asked if he would be paying Rugby's and Bottineau's at the same time. Chair Meehl answered yes. Alan Fosness asked how much his taxes would go up. Discussion started about the calculations and the amounts that would be owed. Allyson Hicks stopped the conversation stating that the State Board could not give advice about how much the taxes would be because if it is wrong, the petitioner could be misled. Allyson Hicks stated that the mill levies and the amount would be something to be discussed with the county auditor. She explained that the hearing could proceed, but the board would like to confirm that the petitioner knows what the amounts would be and is ok with paying it. Allyson Hicks informed the petitioner that if he wanted additional time to speak with the auditor, he would have to request to continue the hearing.

Chair Meehl asked Alan Fosness if he understood that the State Board can only act on the petitioned land that is presented, and the board does not have the authority to reduce the amount of land in the petition today. Alan Fosness answered that he understood.

Allyson Hicks suggested that if Alan Fosness wanted some time to contact the auditor to find out what the dollar amounts would be, the board could take a brief recess, or the hearing could be paused, and the board could take action next month.

Judge Dawson decided to take a five-minute recess starting at 2:58 pm. The hearing was called to order again at 3:03 pm.

**Allan Fosness, Petitioner**

Judge Dawson called Alan Fosness back up to the stand. Judge Dawson asked if Alan Fosness wanted a continuance of the hearing for next month or to continue. Alan Fosness answered that he would like to wait another month due to not knowing how much his taxes would go up. Allyson Hicks asked the clarifying question of the petitioner if he wants just to hold the hearing on whether or not to approve or deny, or is the amount not something he is willing to pay, so would he like to withdraw the petition in total and then negotiate with the counties regarding taxes outside the annexation process. Alan Fosness tried asking questions about the requirements for a land swap and the land values. Allyson Hicks answered that the State Board could not answer his questions. Allyson Hicks referred Alan Fosness to work with the county superintendents of schools for answers to his questions. Allyson Hicks stated that the county superintendents should seek legal advice from their state's attorney so they would be able to interpret the law for the petitioner.

Josh Johnson asked Allyson Hicks if this annexation process started over at the county level, and the least amount of land was considered, would they start all the way from the beginning. Allyson answered that yes he would have to start over, but the process does not need to take that long. She explained that the big wait time is to public notice the hearings at the county level, then at the state level and that the process could be completed in a couple of months.

Josh Johnson asked Allyson Hicks if it is the prerogative of the State Board to make that decision on bonded indebtedness. Allyson Hicks stated that this is different because it is an appeal. She explained that a standard annexation petition that has gone through the counties just comes to the State Board for approval of the findings the counties gave you. When the State Board gets an appeal, this is a whole new hearing, and the State Board is making totally new findings, so the board would have more flexibility on the bonded indebtedness. Allyson Hicks stated that the board should consider that Pierce County approved the petition based on what state law defaults to, which is the bonded indebtedness that is already on his home for Bottineau stays on his home, and the bonded indebtedness in Rugby stays with Rugby. If Rugby did anything above and beyond, that amount would attach to his house, but not the amounts that are currently existing. She stated that is the default of state law which is found in North Dakota Century Code (N.D.C.C) 15.1-12-08, and the State Board would have to make affirmative findings to modify that. She stated that in an appeal, she thinks the deference needs to be given to what Pierce County approved.

Chair Meehl asked Allyson Hicks if there have been changes to the state law that relates to this. Allyson answered no. Allyson explained that this is different from most other annexations because most counties modify the bonded indebtedness and make the affirmative findings of what amounts go to which school district. In this case, the county committee did not modify it, so the bonded indebtedness would maintain the status quo and anything new would go with what school district the property is attached to in the future.

Further discussion was held amongst State Board members and Allyson Hicks regarding the law regarding bonded indebtedness. Allyson explained that the property is currently in the Bottineau School District, and Bottineau has its bonded indebtedness. If this annexation were approved, his property would move to the Rugby School District, and Rugby has its current bonded indebtedness. This law states that even though the property is moving from Bottineau to Rugby, he keeps paying the mill levy for Bottineau, he would not pay the existing mill levy for Rugby. If Rugby were to pass another mill levy in the future, he would have to pay the new mill levy because it would have passed when he was part of the district. In N.D.C.C § 15.1-12-08, if the counties say nothing in the findings, the existing bonded indebtedness that is currently on the property for the current school district stays, and the current bonded indebtedness for the new school district does not attach. The taxable valuation maintains the same.

Josh Johnson re-asked Alan Fosness if he was comfortable with the decision of the State Board today, or would he prefer to wait and come back in the future. Alan Fosness asked for clarification that if Rugby School District wanted to attach their bonded indebtedness also, then he would have to pay both, but if Rugby does not ask, then he would just pay Bottineau's. Allyson Hicks answered that the districts do not get to pick where to attach the bonded indebtedness, the County Committee and State Board do. She explained that the county committees already said that he would be subject to the bonded indebtedness that existed before the effective date of the annexation and any future stuff that passes in Rugby he would be subject to, but what is currently existing in Rugby he would not pay on.

Alan Fosness stated he would like to continue with the hearing.



Chair Meehl asked Alan Fosness if this annexation could be accomplished with 25 acres as Pat Brenden stated. He answered that he does not know if it has to be done in 80 acres or 40 acres. She asked if he saw a way this annexation could be made contiguous to the Rugby district with fewer acres than what was presented. Alan Fosness answered yes.

Judge Dawson confirmed there were no other questions from the board, and Alan Fosness was dismissed.

### **Pat Brenden, Bottineau Superintendent**

Eric Nelson recalled Pat Brenden and asked him if there was a restart to this annexation process and a smaller acreage was presented for annexation, would it be his opinion that the Bottineau County Committee would still expect a land swap or would the minimized impact be accepted. Pat Brenden answered that his board would not fight the annexation if it were minimal acreage such as the 25 acres discussed because his district has other small areas like that in his district maps, and it's a minimal amount of financial loss.

Chari Meehl asked Pat Brenden about the other examples in his district where a small strip, like the 25 acres of land, is annexed. Chair Meehl asked if those examples were a single tax parcel or did they require survey work or any prior approval to create that smaller strip prior to being annexed to Bottineau. Pat Brenden answered that work was done prior to him starting as superintendent, so he does not know. He explained that when he talked to his county treasurer about the possibility of doing the smaller acreage for this annexation, they considered that Alan Fosness' taxes are based on the 80-acre parcels in quarters, so the treasurer figured the financial loss would be approximately \$107 for a 25-acre strip up to Alan Fosness' driveway.

Eric Nelson asked Allyson Hicks about the size of annexed land allowed. Allyson Hicks answered that it is a county decision of how small the land can be subdivided. A taxable unit depends on the auditor and treasurer of the county and what they are comfortable with as taxable parcels.

Judge Dawson confirmed there were no other questions from the board, and Pat Brenden was dismissed.

There being no further testimony, Judge Dawson closed the evidentiary hearing at approximately 3:24 pm and returned the meeting to Chair Meehl.

### **Discussion and Decision**

Chair Meehl read the Finding of Facts from the Pierce County annexation packet.

Chair Meehl stated that under C2, there was nothing listed, so per the advice of the State Board's Attorney, Allyson Hicks read the state law into the record as: the property annexed or attached to the receiving school district is subject to all of the receiving school district's levies except those to retire bonded debt existing before the effective date of annexation or dissolution. Property annexed to the receiving school district is not subject to any levies of the school district from which it was detached, except those to retire bonded debt existing before

the date of the annexation. Chair Meehl continued to read the remainder of the Finding of Facts from the petition. Allyson Hicks read the current per-student valuation. Chair Meehl noted that in Pierce County the motion to approve the petition was approved unanimously with a vote of 4-0. She also noted that Bottineau County did not vote to approve, they motioned to disapprove the petition was defeated, and no motion to approve was acted on.

Board members added the following relevant factors:

- The Bottineau County committee defeated the motion to disapprove the petition 3-1.
- The Pierce County committee voted unanimously 4-0 to approve the petition.
- Rugby Public School does not provide bussing services for students who reside out of the school district.
- Distance and driving time is less to Rugby than to Bottineau.
- Bottineau School District opposes the annexation although does not oppose that the students attend the Rugby School.
- The petitioner would like his taxes to follow to the School District his children attend.
- The petition understands that his tax levy would be increased if the land is annexed to Rugby Public School District.
- The bonded indebtedness of Bottineau School District would stay with the land.
- The petitioner included more land in the annexation petition than required to make a contiguous annexation.
- Petitioner's children already attend the school in Rugby Public Schools.
- The petitioner is currently a coach in the Rugby Public School District.
- The petitioner will be able to vote where his children attend school.
- The petitioner currently has to drive his children to neighboring farms for bussing services.
- The difference between the per-student valuation, if the petition is approved, would be \$809.00.
- The taxable valuation is large relative to the taxable valuation of the district being detached from.
- Equitable solution /land swap.
- Loss of tax base for Bottineau
- A smaller number of acres to accomplish the bus route.
- There was opposition from the Bottineau School District present both at the county and state hearings.

Mike McHugh left the meeting, and joined virtually.

Chair Meehl stated that her experience as a board member would indicate that this is the largest total taxable valuation of land and the largest taxable valuation per student that she has seen.

Josh Johnson motioned to approve the annexation of land to Rugby Public Schools for the following reasons:

- The petitioner would like his taxes to follow to the School District his children attend.

- The petitioner has agreed to pay the higher tax levy on the land that would be annexed to Rugby Public School District.
- Petitioner's children already attend the school in Rugby Public Schools.
- The petitioner has acknowledged to the board that he will continue to pay the bonded indebtedness of Bottineau Public Schools.
- Currently the petitioner is driving his children to meet the bus in the Rugby Public School District as Rugby Public Schools does not provide bussing for students who reside out of the district.
- The petitioner will be able to vote where his children attend school.
- Pierce County committee voted unanimously 4-0 to approve the petition.

Superintendent Baesler seconded the motion.

Eric Nelson noted that the rules and how to accomplish an annexation are not clear for a great number of citizens in North Dakota. He suggested the board develop resources and guidance under the right legal guidelines for clarity on annexations. He explained that he felt conflicted considering a very significant financial impact on a school district, however, he believes it is in the best interest of the Fosness children to be in the Rugby Public School system.

Superintendent Baesler responded that Eric Nelson is not alone in that observation and understanding. She explained that during the 2023 legislative session, the legislators recognized that more and more authority and responsibility had been given to county superintendents, who are also sometimes auditors, or working with the public. Legislators took action, and there was a bill passed that required the North Dakota Association of Counties, which has the authority over county superintendents, to work with the North Dakota Department of Public Instruction (NDDPI) and the Board of Public School of Education to provide education and training. She stated that as the leader of NDDPI, she has met with the leader of the ND Association of Counties, Executive Director Aaron Birst, to begin to plan to offer training, guidance, and resources that could be offered through that association. She stated she wanted everyone to be aware that there has been action and legislative directive on this issue.

Josh Johnson stated that there was a reference made by the Bottineau County committee that there was an equitable solution through a land swap. Josh Johnson stated that through the testimony heard today, a land swap can be tricky to accomplish due to varying land values. He also noted that he thinks this would set a precedent at a county level, and the State Board may not want to continue to see this idea that the State Board will look at land swaps amongst property owners in various school districts proceeding forward. Josh Johnson stated he is conflicted that there could have been less land annexed.

Chair Meehl asked Allyson Hicks that if this petition gets approved, it would not go into effect until July 1, 2024. Allyson Hicks answered that is correct.

Chair Meehl then asked if this petition gets denied, what would be the next steps for the petitioner should he want to reconfigure and re-petition and how long would this take. Allyson Hicks answered that if the State Board denies this annexation, the petitioner could not do

another petition involving the same land for three months. Allyson Hicks explained that the petitioner could resubmit a petition that involved a land swap or a smaller amount of land, but he would have to wait for a period of three months after the date of this hearing before he could resubmit to the county committee to re-hear the annexation.

Supt. Baesler asked Allyson Hicks if the petitioner re-submitted the petition after the three months waiting period, would the implementation date still be July 1, 2024. Allyson Hicks said it depends on the timing, but it could be done.

Supt. Baesler stated she understands the challenge the petitioner has been facing of going through this process for over a year but sometimes doing something swiftly is not always the end goal, sometimes it takes more time to do things well. Supt. Kirsten Baesler stated that if there is no adverse effect on the students, and if there will still be the same July 1, 2024 implementation date, the board might consider having the petitioner resubmit and take less land.

Chair Meehl stated that she is inclined to vote against this motion to approve the petition. She stated that she could be in favor of it for every reason listed in the motion to approve, but many times this board has approved annexations with the reason that they took the smallest amount of land. She stated that she is cognizant of the impact of the taxable valuation on the Bottineau school district, and she believes it is better for the Fosness children to go to the Rugby School. She stated that if the board denies the petition, she regrets the inconvenience to the petitioner to have to drive his children for a few more months, but she is inclined to vote against the motion because there is still time to redo the petition.

Eric Nelson asked Allyson Hicks if it was too late for the petition to be withdrawn since a motion is on the table.

Supt. Kirsten Baesler stated that although she seconded the motion, because this is a permanent decision for the district the board could be more appropriate about the amount of land taken, so she too would vote no for this motion to approve.

Allyson Hicks answered Eric Nelson's question stating that the current motion could be rescinded so long as Josh Johnson and Supt. Kirsten Baesler agreed to rescind the motion. Then it would be up to Chair Meehl to give the petitioner the opportunity to withdraw the petition. She explained that the difference between a withdrawal and a denial is that if Alan Fosness withdrew the petition there would be no State Board denial, therefore there would not be a three-month waiting period to resubmit. She stated that the board seems split on the current motion to approve, and we do not know if the motion would get denied. She stated that the board cannot do a straw poll. The choices are to proceed with the motion to see if it passes or withdraw the motion and allow the petitioner the choice to withdraw.

Josh Johnson stated that he does not wish to withdraw his motion. Supt. Baesler stated that she would retain her second to the motion to put the motion to a vote.

Chair Meehl called for a vote on the motion to approve as presented:

<b>NAME</b>	<b>VOTE (Yes/ No)</b>
Board Member Eric Nelson	No
Vice Chair Josh Johnson	Yes
Superintendent Kirsten Baesler	No
Board Member Mike McHugh	No
Chair Sonia Meehl	No
Lyndsi Engstrom	Absent – Not Voting
Burdell Johnson	Absent – Not Voting

Chair Meehl noted that the motion failed 4-1.

Allyson Hicks stated that there needs to be a motion in the alternative to deny the petition.

Supt. Kirsten Baesler stated that at this point the motion to approve has failed, and there is no motion to deny. She asked Allyson Hicks if the State Board could recess and allow the petitioner the opportunity to withdraw. Allyson Hicks answered yes procedurally you can do it, but if someone were to appeal the decision, this could be an issue. She explained that the State Board has not denied the annexation, so it would be at the discretion of the board to allow the petitioner to withdraw the petition. Allyson noted that the petitioner had his hand raised, and it was up to Chair Meehl to allow him to speak. Allyson Hicks explained that this would not be on the record, it would just be the petitioner speaking at a meeting.

Mike McHugh left the meeting.

Chair Meehl stated she was interested in hearing what the petitioner had to say. Alan Fosness stated that he would like to withdraw. Chair Meehl stated that she does not have to authority to allow him to withdraw. Allyson Hicks suggested doing a motion and vote on it.

Eric Nelson motioned to grant the petitioner's request to withdraw the request for appeal. Supt. Kirsten Baesler seconded the motion.

Chair Meehl called for a vote on the motion to grant the petitioner's request to withdraw the request to appeal:

<b>NAME</b>	<b>VOTE (Yes/ No)</b>
Vice Chair Josh Johnson	No
Board Member Mike McHugh	Absent – Not Voting
Superintendent Kirsten Baesler	Yes

Board Member Eric Nelson	Yes
Chair Sonia Meehl	Yes
Lyndsi Engstrom	Absent – Not Voting
Burdell Johnson	Absent – Not Voting

Chair Meehl noted that the motion passed 3-1 and the board granted the petitioner the right to withdraw.

Allyson Hicks asked Supt. Kirsten Baesler if there was an opportunity for people who regularly deal with annexations, like Sonia Meehl or Jodi Johnson, to participate in the discussion of what type of education is necessary regarding the legislative study and directive on the training of county superintendents. Supt. Kirsten Baesler answered yes, and stated that Executive Director Aaron Birst is looking for any and all input.

Discussion was held regarding assistance and resources to help county superintendents, through the annexation process and also the timeframes of the annexation process. Allyson Hicks recommended Jodi Johnson as a good resource to help but also stated that the State Board will work on getting better guidance resources together. Allyson Hicks stated that the better the petition packet is, for example, the more information provided, clear maps and boundaries, and better county hearing minutes, the faster the State Board can complete the process.

**4. FINAL APPROVAL OF THE FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER FOR THE ANNEXATION OF PROPERTY FROM THE FLASHER PUBLIC SCHOOL DISTRICT NO. 39 OF MORTON COUNTY IN NORTH DAKOTA TO THE LITTLE HEART PUBLIC SCHOOL DISTRICT NO. 4 OF MORTON COUNTY IN NORTH DAKOTA. (FISHER PETITION)**

Supt. Kirsten Baesler motioned to approve the final findings of fact and conclusions of law and order for the annexation known as the Fisher Petition. Eric Nelson seconded the motion. No discussion.

NAME	VOTE (Yes/ No)
Superintendent Kirsten Baesler	Yes
Vice Chair Josh Johnson	Yes
Board Member Eric Nelson	Yes
Chair Sonia Meehl	Yes
Board Member Burdell Johnson	Absent – Not Voting
Board Member Lyndsi Engstrom	Absent – Not Voting
Board Member Mike McHugh	Absent – Not Voting

Motion passed 4-0. The findings were approved.

**5. FINAL APPROVAL OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER FOR THE ANNEXATION OF PROPERTY FROM GACKLE-STREETER PUBLIC SCHOOL DISTRICT NO 56 OF LOGAN COUNTY IN NORTH DAKOTA TO THE KULM PUBLIC SCHOOL DISTRICT NO. 7 OF LAMOURE COUNTY NORTH DAKOTA. (BOWMAN PETITION)**

Supt. Kirsten Baesler moved to approve the final findings of fact and conclusions of law and order for the annexation known as the Bowman Petition. Josh Johnson seconded the motion. No discussion.

NAME	VOTE (Yes/ No)
Board Member Eric Nelson	Yes
Superintendent Kirsten Baesler	Yes
Vice Chair Josh Johnson	Yes
Chair Sonia Meehl	Yes
Board Member Mike McHugh	Absent – Not Voting
Board Member Lyndsi Engstrom	Absent – Not Voting
Board Member Burdell Johnson	Absent – Not Voting

Motion passed 4-0. The findings were approved.

**6. APPROVAL FOR NORTH DAKOTA CENTER FOR DISTANCE EDUCATION STARS ANNUAL REPORT: Dr. Alyssa Martin, Director**

Dr. Alyssa Martin was scheduled to provide training for the State Board, but Supt. Kirsten Baesler requested that the training be moved to the next Board meeting due to time.

Dr. Alyssa Martin explained that the Center for Distance Education (CDE) has moved from Career and Technical Education to the Department of Public Instruction per Senate Bill 2269 and as a result, she brought the annual compliance report for approval. She summarized the LEA Annual Compliance Report for the ND Center for Distance Education for the school year 2023 – 2024. She noted some exceptions for components that do not apply to CDE.

Mike McHugh rejoined the meeting virtually.

Josh Johnson moved to approve the LEA Compliance Report as presented. Eric Nelson seconded the motion. No discussion.

<b>NA ME</b>	<b>VOTE (Yes/ No)</b>
Board Member Mike McHugh	Yes
Board Member Eric Nelson	Yes
Superintendent Kirsten Baesler	Yes
Vice Chair Josh Johnson	Yes
Chair Sonia Meehl	Yes
Board Member Lyndsi Engstrom	Absent – Not Voting
Board Member Burdell Johnson	Absent – Not Voting

The motion passed unanimously 5-0.

Chair Meehl asked Dr. Alyssa Martin what is the nature of the training the State Board will get. Allyssa Martin stated that there is an interim Senate Education Finance Committee and they are studying the cost of synchronous versus asynchronous instruction. She stated the idea is that more virtual academies are being set up in the state, and she was asked to present on the cost of instruction and enrollment. She offered to come back to present the details, or the board could review it and send her questions. Supt. Kirsten Baesler stated that she thinks it would be valuable for Dr. Martin to present it and it would be helpful and informational for the board members to be able to have a dialogue with Dr. Martin.

## 7. ELECTION OF OFFICERS

Josh Johnson nominated Sonia Meehl for the position of chair of the State Board of Public School Education. Supt. Kirsten Baesler seconded the nomination. No other nominations.

<b>NAME</b>	<b>VOTE (Yes/ No)</b>
Vice Chair Josh Johnson	Yes
Board Member Eric Nelson	Yes
Board Member Mike McHugh	Yes
Superintendent Kirsten Baesler	Yes
Chair Sonia Meehl	Yes
Board Member Lyndsi Engstrom	Absent – Not Voting
Board Member Burdell Johnson	Absent – Not Voting

The motion passed unanimously 5-0.

Josh Johnson nominated Mike McHugh for the position of vice chair of the State Board of Public School Education. Mike McHugh accepted the nomination. Supt. Kirsten Baesler seconded the nomination. No other nominations.

<b>NAME</b>	<b>VOTE (Yes/ No)</b>
Board Member Eric Nelson	Yes



Board Member Mike McHugh	Abstained
Superintendent Kirsten Baesler	Yes
Vice Chair Josh Johnson	Yes
Chair Sonia Meehl	Yes
Board Member Lyndsi Engstrom	Absent – Not Voting
Board Member Burdell Johnson	Absent – Not Voting

The motion passed 4-0.

### **8. 2024 MEETING DATES**

Chair Meehl stated that the State Board meetings will continue on the fourth Monday of each month, with no meetings in July, August, or December in 2024, which is the same as the CTE Board meetings. She stated that if there is no need to meet, they would cancel the meeting.

There being no other business before the Board, the meeting was adjourned at 4:30 p.m.

### **NEXT MEETING**

The next meeting is scheduled for October 23, 2023, at 1:00 p.m.

Minutes taken and prepared by Shauna Marchus

Respectfully submitted,

ATTEST:

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Sonia Meehl  
Chairwoman

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Kirsten Baesler  
Executive Director & Secretary