



SCHOOL FUNDING TASK FORCE

Tuesday, November 28, 2023
Room 327E, State Capitol
Bismarck, North Dakota

Senator Donald Schaible, Chairman, called the meeting to order at 10:00 a.m.

Members present: Senators Donald Schaible, David S. Rust; Representatives Pat D. Heinert, Jim Jonas, Eric James Murphy, Anna S. Novak, David Richter, Mark Sanford, Cynthia Schreiber-Beck; Citizen Members Levi Bachmeier, Rick Diegel, Steve Holen, Mike Lautenschlager, Maria Neset, Adam Tescher

Members absent: Senator Jay Elkin; Citizen Members Brandt Dick, Stephanie Hunter, Luke Schaefer

Others present: Senator Brad Bekkedahl, Williston, member of the Legislative Management.
See [Appendix A](#) for additional persons present.

It was moved by Senator Rust, seconded by Representative Jonas, and carried on a voice vote that the minutes of the September 7, 2023, meeting be approved as distributed.

ELEMENTARY AND SECONDARY EDUCATION STATE AID AND FUNDING FORMULA STUDY

Mr. Adam Tescher, School Finance Officer, Department of Public Instruction, provided information ([Appendix B](#)) regarding a history of school transportation funding. He noted:

- Transportation grants have increased approximately 20 percent, from \$48.5 million during the 2011-13 biennium to \$58.1 million during the 2023-25 biennium.
- Transportation expense includes school district general fund transportation expenditures, including the allocated cost of school buses and special education and career and technical education transportation expenditures incurred during the biennium, but does not include transportation for extra-curricular activities. Reimbursements are provided each year of the biennium and are based on prior year miles and rides.
- The percentage of expenses reimbursed by transportation grants statewide has ranged from 38 percent during the 2021-23 biennium to 46 percent during the 2015-17 biennium.
- Based on estimates, funding available for transportation grants is anticipated to exceed transportation reimbursement requests by approximately \$8.4 million during the 2023-25 biennium.
- Beginning in the 2021-23 biennium, open enrollment travel is not reimbursed resulting in an increase in nonreimbursable miles beginning in the 2021-22 school year.

In response to questions from task force members, Mr. Tescher noted:

- Reimbursement rates were set to provide reimbursement within the funding appropriated by the Legislative Assembly.
- During the 2021-23 biennium, school districts reported over 3 million nonreimbursable miles, compared to an average of 200,000 nonreimbursable miles in prior bienniums. Most of the increase in nonreimbursable miles is related to the 2021 legislative change prohibiting reimbursement for open enrollment transportation.
- The estimated excess funding for transportation grants during the 2023-25 biennium also may be due to fewer students riding buses and districts limiting transportation options due to school bus driver shortages.

Dr. Steve Holen, Superintendent, McKenzie County Public School, provided information ([Appendix C](#)) regarding a school transportation study ([Appendix D](#)) conducted in partnership with the University of North Dakota (UND). He noted:

- In 2006, the Washington State Legislature authorized an extensive review of K-12 transportation funding systems which identified four main methods or systems. The block grant represents a foundational per student grant given to school districts. Approved cost provides reimbursement of specific costs associated with transportation. Per unit allocation provides a fixed amount of funding for a specific unit. Predictive or efficiency-driven is geared toward promoting district behaviors that reduce costs and improve operational efficiency.
- The Bureau of Evaluation and Research Services, College of Education & Human Development, UND analyzed data to provide insight into practices regarding K-12 public school transportation funding in North Dakota and potential alternative models to fund transportation. The questions and data analysis strategies were based on a 2012 dissertation, authored by Dr. Holen, entitled "Identifying a Statistical Model for North Dakota K-12 Public School Transportation Funding by Comparing Fifteen State Transportation Funding Formulas". The University of North Dakota was commissioned to replicate the 2012 analysis on more current 2022 data. Variables analyzed were based on the dissertation and data provided by the Department of Public Instruction (DPI).
- The purpose of the study was to review the history of the North Dakota K-12 transportation system, identify how school districts are reimbursed for transportation expenses, and compare the information to transportation funding systems in 14 other states. The expected costs model, used by Oregon and Washington to initiate legislative changes to their K-12 transportation funding structure, was used in the dissertation to calculate expected transportation costs for North Dakota school districts using data collected by Department of Public Instruction.
- The expected costs model used in the study was predictive and efficiency-driven and utilized a multiple regression model to identify the predicted expenditure levels of school districts based on five data points, including total miles, total riders, land area, number of schools, and average mileage to school. The outcome was compared to actual expenditures. Reimbursement based on an expected costs model would pay only costs estimated in the model and any additional costs would be paid by the school districts.
- In 2012, transportation costs ranged from 0 to 18 percent of school district budgets. School districts with large transportation budgets are required to allocate funding from other programs. While transportation is not mandated in many school districts, some consolidated school districts are required to provide transportation.
- UND tested four models, which ranged from 79 to 93 percent accurate. The expected costs model showed some success in predicting actual costs and allowing for the establishment of prioritized levels of funding based on the predicted amounts of expenditures and demographic factors. Analysts identified limitations and opportunities for further research and intend to run additional analyses.

In response to questions from task force members, Dr. Holen noted:

- Transportation challenges vary by school district and increasing the funding, without addressing differences in school districts, would treat all school districts the same. The University of North Dakota has the resources to consider other options, including modifying the system or incorporating transportation into the state school aid formula.
- Reimbursing school districts across the state at the same percentage of expenses may not produce desired efficiencies. If school districts know they will be reimbursed at a certain percentage, they may review possible expenditures differently.

In response to a request from a task force member, Chairman Schaible noted the Education Commission of the States could compile data on transportation funding in other states.

Chairman Schaible suggested DPI provide information regarding the transportation cost per student for each school district and the percent of transportation costs reimbursed by school district, including the cost to reimburse all school districts the same percentage.

Mr. Mike Heilman, Executive Director, North Dakota Small Organized Schools, provided information ([Appendix E](#)) regarding transportation challenges. He suggested the task force consider:

- A formula with factors for mileage over more challenging roads and scarcity for mileage traveled with few students;

- A school size weighting factor for ridership to address small school transportation inefficiencies;
- Transportation funding as a part of the school funding formula; and
- Funding transportation at 70 percent of what would be determined as efficient.

In response to a question from a task force member, Mr. Heilman said the bus driver shortage is not unique to school size or state. He noted new regulations and competing jobs have contributed to shortages everywhere.

In response to a question from a task force member, Mr. Levi Bachmeier noted:

- School districts are reviewing available United States Department of Transportation waivers that may remove some barriers to obtaining a commercial drivers license (CDL) for a bus driver.
- Using the waivers to establish a lower level of CDL for school bus drivers also may discourage drivers from using school district training to obtain licensure only to leave for higher paying commercial jobs.

Ms. Danica Nelson, Student Support Services Director, Bismarck Public Schools, provided information ([Appendix F](#)) regarding funding models for high-cost students. She noted:

- While the number of special education students is increasing, funding from the state special education contract system and out of district billing has been decreasing.
- School districts are reimbursed for excess costs. Excess costs, as defined in North Dakota Century Code Section 15.1-32-18, are those costs that exceed 4 times the state average cost of education per student. For the 2023-24 school year, those limits are \$56,080 for elementary students and \$60,213 for secondary students.
- In addition to state reimbursement for excess cost students, school districts may bill resident school districts for out-of-district placements resulting from foster care, group home, or family member placements.
- The decrease in funding is due to changes to the DPI student contract reference guide, beginning during the 2021-22 school year. Changes were made to the definitions of 1-to-1 paraprofessionals, group paraprofessionals, and teacher aides and the calculation of hours of service per year.
- The task force could consider eliminating the 75 percent in lieu of deduction for tuition, adjusting the excess cost threshold in Section 15.1-32-18 from 4 to 3.25 times the state average cost of education per student, and adopting the DPI student contract reference guide as it existed before the January 2022 revision.

In response to questions from task force members, Mr. Tescher noted:

- In 2023, the Legislative Assembly exempted special education tuition from deduction in the state school aid formula.
- The excess cost threshold of 4 times the state average cost of education per student may need to be adjusted to capture the 1 percent of students with a disability referenced in Section 15.1-32-18.
- The student contract reference guide was revised in January 2022 to establish a more uniform system of billing for special education across the state and to ensure districts were not billing more than actual expenditures.

Chairman Schaible noted:

- Because the educating school district receives the benefit of the per student payment, reimbursement of the special education costs of an open enrolled student by the resident school district may need review.
- The task force could receive information regarding school district accountability related to special education funding.

In response to a request from a task force member, Chairman Schaible noted the Education Commission of the States could provide information regarding the types of special education supports funded in other states.

Mr. Scott Wegner, Partner, Arntson Stewart Wegner PC, provided comments regarding a summary ([Appendix G](#)) of a North Dakota Law Review article ([Appendix H](#)) related to school construction finance. He noted:

- In 1889, the North Dakota Constitution established a school district debt limit of 5 percent of the assessed value of the property in the district. A subsequent constitutional amendment allows districts to increase the limit from 5 to 10 percent with a majority vote. Assessed value is defined by the Legislative Assembly.

- Prior to 1981, assessed value was full and true value. A legislative change in property tax structure now defines assessed value as one-half of full and true value. The definition change effectively reduced debt limits by 50 percent.
- Certificates of indebtedness, because they are not paid from a property tax source, do not count against the debt limit. Because certificates of indebtedness allow school districts to borrow against any federal or state stream of revenue and there is no tax increase, a vote is not required.
- General obligation bonds require a 60 percent super majority vote. Voters are asked to approve a bond amount in dollars. The mill levy needed to service the bonds is not limited and is approved for up to 20 years.
- The Legislative Assembly has authorized school districts to assess a building fund levy. Each mill levy increase requires a 60 percent super majority vote and the maximum levy is 20 mills. School districts may borrow against the building fund levy without a separate vote; however, there is a 60-day protest period.
- Building authorities are non-profit corporations and can be used for lease financing. The building authority issues bonds to build the project and leases the building back to the school district. Because no new mills are assessed, a vote is not necessary. The Legislative Assembly has restricted lease financing to projects under \$4 million unless there is a majority vote.
- Popular financing options that have been repealed or prohibited include bonds which could be used for certain limited improvements and bonds paid from sales tax revenues pursuant to joint powers agreements.
- Suggestions for legislative action include increasing debt limits by changing the definition of assessed value, allowing the school construction assistance revolving loan fund to be used by school districts borrowing with certificates of indebtedness, removing the bonding requirement to secure an emergency loan from the coal development trust fund, removing limitations on building authority and lease financing options, authorizing school districts to use up to 10 mills for a building fund without a vote and requiring a vote to authorize more than 10 mills, lowering the threshold for general obligation bond approval from 60 to 55 percent, allowing school districts to borrow against the 12 mill miscellaneous levy, and reviewing the general obligation and building fund statutes to simplify and repeal obsolete language.

Mr. Kelvin Hullet, Chief Business Development Officer, Bank of North Dakota, provided information ([Appendix I](#)) regarding the status of the school construction assistance revolving loan fund. He noted:

- In 2017, the Legislative Assembly transferred \$75 million from the foundation aid stabilization fund to the school construction assistance revolving loan fund and merged the Bank interest rate buydown program loans into the revolving loan fund. The Legislative Assembly also transferred certain school construction loans held by the Department of Trust Lands into the revolving loan fund.
- In 2019, the Legislative Assembly transferred an additional \$75 million from the foundation aid stabilization fund to the revolving loan fund and a third installment of \$75 million was transferred from the foundation aid stabilization fund in 2023.
- In 2023, the Legislative Assembly amended provisions of the revolving loan fund to provide projects less than \$75 million qualify for loans up to \$15 million and projects totaling \$75 million or more qualify for loans up to \$30 million. School districts with loan approvals under the lower thresholds were allowed to apply for additional funding up to the new maximum loan amounts. In addition, the Legislative Assembly allowed school districts to use the revolving loan fund to refinance market rate loans and authorized loans of up to \$5 million from the coal development trust fund for unanticipated construction inflation.

Ms. Kylee Merkel, Legislatively Directed Programs Business Banker, Bank of North Dakota, provided information ([Appendix J](#)) regarding the status of the school construction assistance revolving loan fund. She noted:

- As of November 19, 2023, school construction assistance revolving loan fund outstanding loans totaled \$312.2 million and \$7.4 million remained uncommitted.
- Revolving loan repayments through June 2024 will result in \$24.4 million available for loan as of June 30, 2024, and repayments from July 2024 through June 2025 will provide an additional \$29.4 million before the end of the biennium to bring total additional funding available during the 2023-25 biennium to \$53.8 million.
- There were 3 requests for loan increases related to the new maximum revolving loan amounts totaling \$48.1 million.
- There were 3 requests for coal development trust fund loans related to the new authorization for loans related to unanticipated construction inflation totaling \$8.7 million.

- The revolving loan fund generates approximately \$60 million each biennium for new loans, enough for 6 loans at the old limit of \$10 million. Increasing the loan limits to the tiered system of \$15 million and \$30 million may result in fewer loans being available each biennium.

In response to a question from a task force member, Mr. Hullet noted:

- Based on the initial goal of providing \$60 million for new loans each biennium, it was determined the revolving loan fund would require approximately \$500 million.
- To provide approximately \$130 million in loans each biennium the revolving loan fund would need an additional \$100 million to \$125 million.
- The Bank could provide further analysis to determine the size of the revolving loan fund needed to provide additional loans each biennium.

Dr. Aimee Copas, Executive Director, North Dakota Council of Educational Leaders, provided information ([Appendix K](#)) regarding a school construction survey. She said 72 school districts responded to the survey. She noted:

- The success rate for bond attempts has declined from 66.8 percent in 2016 to 48.5 percent in 2021, however the amount of funding raised by bonding has increased as inflation has impacted school construction costs.
- School districts with fewer than 5,000 students have a median bond success rate of 50 percent, while school districts with more than 10,000 students have a median bond success rate of 75 percent. Larger communities are able to spread the cost over more taxpayers.
- Bonds for new construction have a 65 percent success rate, while bonds for repairs and renovations have a 50 percent success rate. This has resulted in more deferred maintenance, especially in smaller school districts.

Mr. Geoff Simon, Executive Director, Western Dakota Energy Association, provided information regarding a school construction coalition. He noted:

- The coalition includes school districts statewide, many of which are in outdated facilities with significant deferred maintenance.
- The school districts lack financial resources and do not have the property tax base to support a bond issue.

Mr. Joshua Johnson, Superintendent, Valley City Public School District, provided information ([Appendix L](#)) regarding the work of the school construction coalition. He noted:

- The coalition includes rural and western districts and is made up of school administrators, board members, teachers, and other association members and stakeholders.
- The coalition plans to review school construction funding, including construction cost inequities, local and state contributions, the appropriate level of voter approval for bonds, and how other states fund school construction.
- The coalition's goals are to review K-12 facility and funding needs throughout the state, determine options, communicate with leaders and the public, and develop solutions.

Presentations regarding structural, plumbing, security, accessibility, and heating and cooling system deficiencies and water damage in school buildings across the state were provided by:

- Mr. Daren Kurle, Superintendent, Belfield Public School;
- Ms. Sonia Meehl, School Board President, Oakes Public School;
- Ms. Sarah Lerud, Librarian, Valley City Public School District;
- Ms. Courtney Klein, Health Teacher, Devils Lake Public School District; and
- Dr. Richard Faidley, Superintendent, Williston Basin School District

In response to a question from a task force member, Mr. Johnson noted the coalition has contracted with an engineering firm to collect information regarding the cost of critical projects at school districts across the state; however, some school buildings have not been evaluated.

No further business appearing, Chairman Schaible adjourned the meeting at 5:00 p.m.

Sheila M. Sandness
Senior Fiscal Analyst

ATTACH:12