



SCHOOL FUNDING TASK FORCE

Thursday, September 19, 2024
Harvest Room, 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, Brandt Dick, Rick Diegel, Steve Holen, Mike Lautenschlager, Maria Neset, Luke Schaefer, Adam Tescher

Members absent: Senator Jay Elkin; Citizen Member Stephanie Hunter

Others present: Senator Brad Bekkedahl, Williston, member of the Legislative Management
Senator Michelle Axtman, Bismarck, Education Committee Chairman
Shelby Carlson and Del McOmie, Wyoming State Construction Department; Jeff Fastnacht, Bismarck Public Schools; Frank Harwood and Gabrielle Hull, Kansas State Department of Education; Mike Heilman, North Dakota Small Organized Schools; Joshua Johnson, Valley City Public School District; Daren Kurle, Belfield Public School; Jamie Mertz, Department of Public Instruction; and Sherry Neas, Office of Management and Budget
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 June 26, 2024, meeting be approved as distributed.

ELEMENTARY AND SECONDARY EDUCATION STATE AID AND FUNDING FORMULA STUDY

Mr. Jamie Mertz, Chief Financial Officer, Department of Public Instruction, provided information ([Appendix B](#)) regarding the uses of federal Elementary and Secondary School Emergency Relief (ESSER) funds allocated to school districts and discretionary ESSER funds appropriated to the Department of Public Instruction (DPI). He noted:

- Of the \$30.1 million of ESSER I funding allocated to school districts, \$153,118 was not expended and expired in September 2022. State discretionary and administration ESSER I funding totaled \$3.3 million, and was expended.
- Of the \$122.6 million of ESSER II funding allocated to school districts, \$2,571 was not expended and expired in September 2023. State discretionary and administration ESSER II funding totaled \$13.3 million, and was expended.
- Of the \$275.4 million of ESSER III funding allocated to school districts, \$28.7 million has been not expended. The remaining funds must be allocated by September 30, 2024. The federal government is allowing states to request a late liquidation of the funds for any contracts or equipment orders in place by the expiration date. Typically, states have 3 months from the grant expiration to liquidate the funds; however, late liquidation, if approved, will extend the deadline 15 months. The late liquidation does not allow for new contracts or contract changes after the September 30, 2024, deadline.
- Of the \$29.9 million of ESSER III funding provided for state discretionary and administration expenditures, \$7.2 million has not been expended. The department has contracted for the remaining state discretionary and administration funding.
- Remaining ESSER allocations to school districts ranged from a few dollars to \$8 million for Belcourt School District #7. The department has contacted school districts with balances remaining and approximately

one-half of the school districts have responded to indicate they either have contracts or will spend the balance remaining.

- School districts report the top uses of ESSER funding include acquisition of real property or modular buildings, construction projects, renovation projects, learning loss, maintaining continuity of services, air quality, school facility improvements, technology, transportation, special education, and budget shortfalls.
- The top uses of state discretionary funds by DPI include literacy programs, out-of-school time grants, science of reading grants, stronger connections grants, school food service innovation and equipment grants, choice ready grants, exact path contracts, teacher shortage programs, and school board training. The department also provided funding to the Department of Health and Human Services for best in class (4 year olds) grants and prekindergarten contracts; Parks and Recreation Department for summer learning programs; and Center for Distance Education (CDE) for computer science and cybersecurity courses.

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

- Unless a school district voluntarily returns ESSER funding, the department is unable to reallocate the funding.
- The department will provide a final report of balances remaining after the September 30, 2024, deadline.
- Because ESSER funds were distributed based on Title I, high poverty school districts received larger allocations.

Mr. Adam Tescher, School Finance Officer, Department of Public Instruction, provided information ([Appendix C](#)) regarding an update on enrollment, state school aid, special education contract grants, and transportation grants to be provided during the 2023-25 biennium and updated cost-to-continue estimates for the 2025-27 biennium. He noted:

- Average daily membership was less than projected in the 1st year of the 2023-25 biennium and based on preliminary fall reports, enrollment the 2nd year of the biennium also will be less than anticipated resulting in state school aid formula savings of \$22 million.
- Contributions from property tax and in lieu of revenue in the state school aid formula are anticipated to be \$4 million and \$19 million more, respectively, than anticipated in the 2023-25 biennium budget.
- Estimated turnback is anticipated to total \$69.3 million, including \$57 million related to state school aid, \$8 million related to transportation, and \$4.3 million related to special education contracts.
- The department is projecting slower growth in the next biennium as small school district enrollments decline and large school district enrollments grow.
- Based only on enrollment changes and adjustments to property tax and in lieu of revenue, the cost-to-continue state school aid during the 2025-27 biennium is anticipated to be a reduction of \$27.8 million.
- Based on estimates for the 2025-27 biennium, if Initiated Constitutional Measure No. 4, related to prohibiting ad valorem property tax, is approved by voters, the state would be responsible for an additional \$758 million of the state school aid formula during the 2025-27 biennium. In addition, school districts levy an estimated \$200 million of additional property tax outside of the formula that would become the responsibility of the state.

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

- Averaging the in lieu of revenue deduction in the funding formula may benefit school districts experiencing significant variances in local revenue from year to year.
- Before the legislative session, the department could provide information regarding the cost to provide 2025-27 biennium annual increases in the per student payment rate of 1, 2, 3, and 4 percent.

Mr. Tescher provided information ([Appendix D](#)) regarding the impact of state reimbursement of the homestead credit and disabled veterans' credit on the state school aid formula and limits on school district levies. He noted:

- Removing the formula deduction for revenue related to the homestead credit and disabled veterans' credit and including the property values related to the credits in the 60 mill formula deduction would eliminate the need to make adjustments to property values reported by the counties.

- Because the Tax Department has tools to review valuation data which are not available to DPI, aligning the department's taxable valuation data with the information collected by the Tax Department would increase accuracy.
- Because DPI uses the valuation data to calculate state school aid projections each even-numbered year and is required to publish school district financial data each February, the timing of the data released by the Tax Department presents a challenge.
- School district general fund tax levies are limited to a 12 percent increase each year; however, beginning July 1, 2025, increases in the 60 mill deduction in the state school aid formula are no longer limited. Continuing the limit on property tax assessed may result in fewer tax dollars collected by some school districts than are deducted in the formula.

Mr. Tescher provided information ([Appendix E](#)) regarding a summary of incentives to promote school district consolidation. He noted:

- Reorganized school districts receive a higher school size weighting factor for 7 years after reorganization.
- Schools operating multiple buildings at least 14 miles apart also receive higher school size weighting factors and are not required to impute average daily membership for elementary school buildings.

Senator Michelle Axtman, Bismarck, Education Committee Chairman, provided information ([Appendix F](#)) regarding an update on the committee's school choice study. She noted:

- The committee received information regarding states that authorize charter schools, open enrollment, and magnet schools.
- While studies show most charter school students performed better than their peers in reading and mathematics, online charter schools were less effective.
- The committee reviewed private school choice options, including vouchers, tax credits and deductions, and education savings accounts. Public funding for vouchers and eligibility and credit levels for tax credit scholarships vary from state to state. Education savings accounts are the fastest growing form of school choice and states vary with regard to authorized costs that may be charged to the savings accounts.
- North Dakota's open enrollment statutes allow students to apply for enrollment in a school district other than their district of residence. In addition, House Bill No. 1376 (2023), allows students to attend an approved virtual school or enroll in CDE. The committee will be receiving information regarding virtual school student outcomes.
- A marketplace model could provide a tiered educational opportunities program in which the 1st tier provides public school students access to online supports, the 2nd tier provides a private school option, and the 3rd tier provides support for homeschool students.
- The committee will review stakeholder comments and public survey results regarding school choice models.
- In addition to the committee, an educational opportunities task force, made up of a group of education stakeholders, has been reviewing other states' experiences with school choice models, including growth and the challenges of various models.

In response to questions from task force members, Senator Axtman noted:

- The cost of a marketplace model will depend on the funding provided for each student. The committee is collecting information regarding tuition costs across the state and reviewing the appropriate level of support.
- If a percentage of the per student payment is made available to the approximately 7,000 private school students, it would be an additional cost to the state.
- Some states require means testing for school choice benefits.
- To prevent fraud, any school choice model adopted must require accountability features.

Dr. Jeff Fastnacht, Superintendent, Bismarck Public Schools, provided comments regarding the Education Committee's school choice study. He noted:

- Some school districts in the state offer personalized learning and career-based learning opportunities to all students. Given the number of courses required to graduate, it is a challenge to find time for specialized study within the school day.

- The requirement for school districts to pay for the cost of students electing to take courses through CDE is estimated to cost Bismarck Public Schools approximately \$300,000 during the next school year.

Dr. Frank Harwood, Deputy Commissioner, and Ms. Gabrielle Hull, Legislative Coordinator, Division of Fiscal and Administrative Services, Kansas State Department of Education, provided information ([Appendix G](#)) regarding Kansas school construction programs and funding. Dr. Harwood noted:

- Kansas school districts may levy local property taxes of up to 8 mills for capital purchases, including construction, and also may issue bonds, up to 14 percent of assessed valuation, to finance construction of school facilities. State Board of Education approval is needed to receive state aid for a capital project.
- Kansas uses the average valuation per pupil (AVPP) to assist in property tax equalization and determine state aid, including supplemental state aid to equalize funds available for general operating expenses, equalization aid for capital outlay from property tax assessments, and equalization aid for capital improvements or bond payments.
- The formula to determine a school district's equalization aid for capital outlay ranks all districts from highest to lowest based on their AVPP. The median school district is entitled to receive 25 percent matching state aid. For school districts below the median AVPP, state aid increases, and for school districts above the median AVPP, state aid decreases. Of the 286 school districts in the state, 187 districts qualified for capital outlay state aid during the 2023-24 school year.
- When determining equalization aid for capital improvements, Kansas uses a different formula for bonds prior to 2015 and bonds after 2022. State aid for bonds prior to 2015 is determined in a similar manner as equalization aid for capital outlay. In 2016, Kansas set limits on the state's liability for bonds. The total amount of state aid for bonded indebtedness each year is limited to the amount of the decrease in the total school bond indebtedness from the previous year adjusted for inflation. For bonds after 2022, school districts are ranked based on their AVPP. The lowest ranked district, not on federal property, is eligible for 51 percent state aid. The percent of state aid decreases from there as the AVPP of the school district increases.
- Other funding sources available for school construction include safe and secure schools program grants and city sales tax. Counties do not have statutory authority to impose a sales tax for school buildings; however, one county was given special permission by the 2024 Legislative Assembly to impose this type of tax when their school building burned, and it was approved by voters.

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

- State Board of Education approval is required before a school district is allowed to place a bond issue on the ballot.
- When the state's bond limit is reached, projects are prioritized based on growth, safety, accessibility, quality of instruction, and AVPP of the school district.
- Bond issues require a simple majority approval. If a bond issue approved by the State Board of Education is not approved by voters, the amount is added back to what is available within the bond limit.
- If the school district's indebtedness will remain less than the 14 percent limit, the State Board of Education does not limit the amount of the bond.
- School districts with less than 260 students are not eligible for state aid. The Kansas State Department of Education is performing a school district organization study to address the need for smaller school districts in sparsely populated areas.

Ms. Shelby Carlson, School Facilities Division Administrator, and Mr. Del McOmie, Director, Wyoming State Construction Department, provided information regarding a history of the Wyoming school facilities program ([Appendix H](#)) and a summary ([Appendix I](#)) of the state's school construction programs and funding. They noted:

- The school facilities division is responsible for the planning, design, construction, and major maintenance of K-12 schools in Wyoming.
- School finance reform in 1998 was in response to a 1995 lawsuit that found Wyoming's school finance system was failing to provide equal and adequate educational opportunities. Coal lease bonus revenues were abundant and initially were dedicated to pay for school facilities. Funding sources had to be adjusted as coal lease bonus revenues declined.

- Statutorily, the school facilities division is responsible for long-range facility plans for each school district every 2 years. The division anticipates they will evaluate facilities in all 48 school districts and 8 charter schools annually, including land and building leases, and make recommendations to the schools regarding building concerns to be addressed. The school facilities division prioritizes the needs of each district based on the evaluations and is required annually to provide two remediation schedules for the state budget, a condition schedule and a capacity schedule. Capacity is measured based on the state's standard requirements for square footage per student and maximum number of students per room.
- Facility condition assessments are required periodically and are done by a consultant. The division uses a facility condition index to determine which facilities need to address deferred maintenance. The division evaluates school district equipment and monitors current and future deferred maintenance and anticipates adding security assessments to the reviews.
- Every 4 years the division reviews facilities based on statewide uniform adequacy standards. The review includes assessing site size, square footage of the building, capacity, technology, common areas, and athletic venues. School districts may request a review if the educational space is determined to be inadequate.
- Capital construction requests may arise from either the condition schedule, capacity schedule, or a review request that determined a building is inadequate to deliver the educational program.
- If a school building, based on the condition schedule, has a condition concern, or is over 100 percent capacity based on the capacity schedule, a most cost-effective remedy study is performed to determine a remedy that is in the best financial and educational interest of the state. The study may include grade configurations and the most cost-effective remedy might include nonconstruction remedies, including adjusting space usage or boundaries. The division and a consultant work with school districts to identify the most cost-effective remedy to present to the school facilities commission and eventually the legislature.
- The division is required to make a budget request each year and uses the information gathered through schedules, assessments, and most cost-effective remedy studies to prepare the request. The request may include capital construction, including large major maintenance projects; inflationary funds; unanticipated costs related to capital construction; off-site infrastructure costs related to sewer, water, and access; contingency or special costs; and major maintenance funding, which is based on a formula. Once approved by the school facilities commission, the budget moves through the legislative process.
- Biennially the division requests funds for engineering, technical fees, and division operating funds.

In response to questions from task force members, Mr. McOmie and Ms. Carlson noted:

- The cost of the most recent statewide facility condition assessment was approximately \$3 million, not including an additional \$1 million for additional more targeted facility reviews. The assessment evaluated approximately 600 buildings or 23 million square feet of space.
- While the state provides funding to build and maintain school facilities, the school districts own the buildings and are responsible for performing the maintenance. Routine maintenance funding is provided to school districts through the education block grant. School districts are required to use maintenance funding for priority 1 and 2 maintenance. The legislature is considering enacting definitions for routine and major maintenance.
- School districts are able to request building projects. Using the annual planning process and project managers throughout the state, the division is made aware of construction needs before a request is made. It takes approximately 4 years from the time a new facility is requested to when it is completed. To account for the timing of projects, most cost-effective remedy studies project needs 5 years into the future and capacity trends are reviewed 8 years into the future.
- There is a statewide property tax, and school districts receive some of the funding; however, property tax revenues are not used for capital construction or major maintenance.
- School districts may decide to add square footage without state funding; however, they would not receive funding for maintenance of the enhancements. If the capacity threshold is eventually met, school districts may request school facilities commission approval to add the enhancements to the educational allowable square footage and receive maintenance funding. School districts must request commission approval to remove a building from service for a limited number of years and still receive maintenance funding.

Mr. Daren Kurle, Superintendent, Belfield Public School, provided information ([Appendix J](#)) regarding an update on the work of the school construction coalition and a school district survey regarding the current condition of school facilities, financial limitations, debt limits, and recent efforts to address facility needs. He noted:

- Of the 166 school districts in the state, 111 completed the coalition's survey. Respondents identified aging facilities and deferred maintenance as the number one challenge facing school districts. Of the school districts responding, 46 districts had completed a facility assessment in recent years and 61.2 percent had held a bond referendum in the past 10 years.
- The coalition recommends the state establish a set of minimum standards for school facilities, fund a statewide facility condition assessment program, create a program to provide financial support for school facility improvements, and approve legislation to address debt limits, voter approval requirements, mill levies for special projects, building fund levies, ballot language for bond referendums, and special reserve fund transfers.

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

- The coalition plans to meet with stakeholders before proposing a detailed state funding program for school construction.
- Using sales tax revenues to fund school construction was discussed and while it may be a viable source of funding for some school districts, many school districts do not have a large enough sales tax base.

Mr. Levi Bachmeier, Business Manager, West Fargo Public Schools, provided information ([Appendix K](#)) regarding the fiscal impact of recent legislation on school districts, including a summary ([Appendix L](#)), by school district, of school district meal debt and CDE and mental health services costs. He noted:

- The North Dakota Council of Educational Leaders surveyed school districts and received 89 responses covering approximately 84 percent of 2023-24 school year K-12 enrollment.
- Of those responding, 71 school districts reported, before write-offs and donations, meal debt totaling \$1.1 million, ranging from \$82 to \$175,207. West Fargo Public Schools experienced an 11 percent increase in meal debt.
- Survey respondents reported the cost to school districts for CDE courses that the school district also offers totaled \$1.37 million. Costs ranged from \$229 to \$322,675 and averaged \$25,341 per school district for the 54 school districts reporting costs for duplicate courses. Allowing school districts to establish deadlines for withdrawal from courses and set policy regarding CDE course enrollment that promotes flexibility for students with course conflicts and provides access to courses not offered, would provide some relief to school districts.
- Of those responding, 48 school districts reported mental health contract services costs, not reimbursed by the state, totaling \$1.94 million, ranging from \$1,207 to \$390,000.

In response to a question from a task force member, Mr. Bachmeier noted before the approval of virtual school choice by the Legislative Assembly, CDE courses in West Fargo Public Schools largely were related to remedial courses. Since the approval of virtual school choice, the cost has increased by approximately 10 times.

Mr. Mike Heilman, Executive Director, North Dakota Small Organized Schools, provided information ([Appendix M](#)) regarding incentives to promote school district consolidation and how consolidation may lead to construction incentives. He noted:

- Consolidations have brought financial benefits and expanded educational opportunities.
- School district consolidation challenges include the impact on community identity and local control, the distance students must travel to attend school, the loss of extracurricular opportunities, local economic concerns, and emotional and political resistance.
- Challenges must be balanced carefully with the need to provide sustainable, high-quality education across the state. Engaging communities in open dialogue and offering solutions that mitigate the downsides of consolidation, such as improved transportation infrastructure or shared services models, could help ease the process.
- Construction incentives may encourage consolidation, however the location of the construction becomes part of the challenge.
- Virtual schools have allowed small school districts to offer courses when a teacher is not available.

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

- The Kansas or Wyoming models for school construction may be modified to work in North Dakota.

- Of the school districts in the state operating with fewer than 100 students, some are necessary because of their location and others, operating just outside larger school districts, are efficient.

Dr. Steve Holen, Superintendent, McKenzie County Public School District #1, provided information ([Appendix N](#)) regarding a school transportation study conducted in partnership with the University of North Dakota. He noted:

- The block grant system is simple, but limited in its ability to account for local factors impacting overall costs. Transportation funding covers less than 40 percent of school districts' transportation expenditures statewide.
- Using the per student payment rate to determine transportation funding would result in increased reimbursement when the per student payment rate is increased. Reimbursement would be a function of average daily membership and weighting factors assigned to certain variables.
- The proposal maintains the 90 percent limit on maximum reimbursement and would result in a net increase in transportation reimbursement for all eligible school districts.
- Additional factors for the number of schools in the district and land area were validated in the University of North Dakota analysis and are available for DPI to include in the formula and weighting factors allow for adjustments.
- The estimated cost of the formula proposal is \$61.2 million per biennium, or \$3.1 million more than the 2023-25 biennium appropriation for transportation grants.
- Challenges not addressed by the proposed formula include adequacy and equity, efficiency, cost per student, transportation infrastructure, and regional bus driver shortages.
- To move the formula toward a more comprehensive model likely will require additional data collection and the potential use of technology to avoid extensive reporting and data integrity issues.

In response to a question from a task force member, Dr. Holen noted there are GPS data collection programs available to school districts; however, the factors included in the formula would have to be identified before GPS data collection programs could be evaluated.

Ms. Sherry Neas, Shared Services Division Director, Office of Management and Budget, provided information ([Appendix O](#)) regarding the ability of state procurement to bid schoolbuses and statutory changes needed to allow for group purchasing of buses. She noted:

- Statutory authority for cooperative purchasing exists in North Dakota Century Code Chapter 54-44.4, related to state purchasing practices, and in Chapter 15.1-09, related to school boards, thus no legislation would be needed to develop a cooperative purchasing program for schoolbuses or any other school purchases.
- If a school board is making a cooperative purchase with the Office of Management and Budget (OMB) or making a cooperative purchase pursuant to a joint-powers agreement, the board is not required to use a competitive bidding process.
- OMB is staffed to meet the procurement needs of state government. Other political subdivisions may benefit from some state contracts. Coordinating need and specifications for school district buses would require additional school district and OMB employee resources.
- Cooperative purchasing also could save school districts money on other commonly used items such as sports equipment, and facility and office supplies.

Chairman Schaible suggested regional education associations explore collaborating to establish cooperative purchasing agreements.

In response to a question from a task force member, Chairman Schaible noted the task force's mission is to gather information for the Legislative Assembly and to aid legislators who may want to draft legislation.

Task force members noted:

- The state would benefit from a statewide assessment of school facilities.
- A discussion regarding the viability of very small school districts is necessary, including those that must be maintained and those that could be reorganized or consolidated.
- The school construction assistance revolving loan fund could be increased to benefit more school districts and provide additional property tax relief. School districts unable to generate enough revenue to repay the

loan do not benefit from the fund.

- Allocating the funds available in the school construction assistance revolving loan fund may allow more school districts to benefit.
- State school construction assistance that provides matching funds would allow school districts to bring a plan to voters that includes a commitment from the state.
- State standards for school facility assessment also should address the impact of the standards on newer facilities constructed before the standards were adopted.

Mr. Joshua Johnson, Superintendent, Valley City Public School District, noted common standards will be important when comparing facility assessments.

Ms. Anna Sell, Superintendent, Oakes School District #41, noted:

- An Oakes School District #41 bond referendum, based on a facility assessment done using Minnesota facility standards, may have been received more positively if it had been based on North Dakota facility standards.
- A matching funds commitment from the state would have removed some of the uncertainty related to a project's financing package.

It was moved by Representative Schreiber-Beck, seconded by Representative Richter, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and to present the report to the Legislative Management.

It was moved by Representative Schreiber-Beck, seconded by Representative Novak, and carried on a voice vote that the task force be adjourned sine die.

No further business appearing, Chairman Schaible adjourned the task force sine die at 4:40 p.m.

Sheila M. Sandness
Senior Fiscal Analyst

ATTACH:15