SCHOOL FUNDING TASK FORCE

Subsection 1 of Section 1 of Senate Bill No. 2328 (2023) required the Legislative Management to establish and provide staffing and administrative services to a school funding task force facilitated by a nonpartisan leadership organization. The Chairman of Legislative Management was allowed to add additional, temporary nonvoting members to the task force, as deemed necessary by the task force chairman, to serve without compensation. The task force could include public school administrators or business managers, public school teachers, five members of the Legislative Assembly appointed by the Legislative Management, parents of public school students, representatives from the Department of Public Instruction (DPI), a representative from the Governor's office, and a representative from a regional education association.

Subsection 2 of Section 1 of the bill required the task force to:

1. Review litigation the state was a party to relating to school funding and the resulting implications for school funding models;
2. Analyze higher education funding sources to determine whether the sources may be used in whole or in part for the K-12 system;
3. Review school payment formulas to determine whether education costs can be equalized across the state;
4. Study the size, student population, and economics of school districts and the number of facilities within the district per square mile compared with student population;
5. Develop and study sliding-scale models within school districts based on size, student populations, and economics;
6. Assess the negative impacts of the current funding formula;
7. Study school funding formulas used by other states;
8. Determine the benefits of and incentives to promote school district consolidation;
9. Review school transportation costs considering location, size, and student enrollment;
10. Study high-cost student and special education student costs as those costs relate to the formula weighting factors; and
11. Analyze the cost of distance education, comparing the costs of different methods of instruction delivery, including synchronous as compared to asynchronous instruction.

Subsection 3 of Section 1 of the bill provided the task force also may study the funding of school building maintenance and repairs, considering location and whether buildings are located in a rural or urban area; review ending fund balances; and analyze how the current funding formula impacts ending fund balances.

The School Funding Task Force reviewed selected provisions of the elementary and secondary education state aid formula, including school districts not on the formula, impacts to reorganized and consolidated school districts, local contributions to the formula, and excess ending fund balance deductions. In addition to the state school aid formula, the task force reviewed transportation aid for elementary and secondary education, special education contract reimbursements, and school construction challenges and funding models.

Task force members were Senators Donald Schaible (Chairman), Jay Elkin, and David S. Rust; Representatives Pat D. Heinert, Jim Jonas, Eric James Murphy, Anna S. Novak, David Richter, Mark Sanford, and Cynthia Schreiber-Beck; and citizen members Levi Bachmeier, Brandt Dick, Rick Diegel, Steve Holen, Stephanie Hunter, Mike Lautenschlager, Maria Neset, Luke Schaefer, and Adam Tescher.

ELEMENTARY AND SECONDARY EDUCATION STATE SCHOOL AID FUNDING FORMULA

Background

The task force received background information regarding applicable North Dakota constitutional directives, the history of education funding and property tax relief in the state, and litigation that led to the creation of the North Dakota Commission on Education Improvement.

North Dakota Commission on Education Improvement

The North Dakota Commission on Education Improvement was created in 2006 by executive order of the Governor in response to litigation regarding education funding provided by the state. The North Dakota Commission on Education

Improvement, as initially configured, consisted of the Lieutenant Governor (as the Governor's designee), the Superintendent of Public Instruction, four members of the Legislative Assembly, four school district administrators, and three nonvoting members representing education interest groups. The commission was instructed to recommend ways in which the state's system of delivering and financing public elementary and secondary education could be improved, and to specifically address the adequacy of education, the equitable distribution of funding, and the allocation of funding.

The recommendations of the North Dakota Commission on Education Improvement became the basis for Senate Bill No. 2200 (2007), which provided a new education funding formula. The bill consolidated education funding that had been assigned to a variety of existing funding categories and established new weighting factors that reflected the added costs of providing education to certain categories of students and the added costs of providing various statutorily mandated services. In addition, the new formula factored in the variable cost of providing services and programs in small, medium, and large school districts. The Legislative Assembly increased the availability of capital improvement loans for needy school districts, provided increased funding for new career and technical education (CTE) centers and programs, and provided funding for full-day kindergarten programs. The Legislative Assembly reauthorized the North Dakota Commission on Education Improvement and directed it to focus its attention on developing recommendations regarding educational adequacy.

After the 2007 legislative session, the North Dakota Commission on Education Improvement contracted with Lawrence O. Picus and Associates (Picus) to identify the resources needed to ensure an adequate education for all students.

In 2009, after reviewing the Picus report, the North Dakota Commission on Education Improvement made recommendations to the Legislative Assembly, many of which were enacted in House Bill No. 1400. At the conclusion of the 2009 legislative session, the North Dakota Commission on Education Improvement began its third and final interim effort and provided its recommendations to the 2011 Legislative Assembly. As had its predecessors, the 2011 Legislative Assembly incorporated the recommendations put forth by the North Dakota Commission on Education Improvement through the enactment of Senate Bill Nos. 2013 and 2150.

Property Tax Relief Legislation

While educational equity and adequacy continued to be dominant legislative concerns, additional time and attention was being given to the desire for property tax relief. In 2007, the Legislative Assembly enacted property tax relief through the use of income tax credits and transferred $115 million from the permanent oil tax trust fund to the state general fund to offset anticipated revenue losses resulting from the credits. Due to inherent administrative difficulties resulting from the use of income tax credits for property tax relief, the 2009 Legislative Assembly instituted a statewide system of property tax relief through state-funded school district mill levy reductions. The biennial cost of the program was $299 million. By 2011, the program's price tag had risen to $341.8 million and there existed concerns regarding the overall effectiveness of the mill levy reduction grant program as a mechanism for property tax relief, the program's potential to result in the rededication of locally generated revenues to other purposes, and long-term sustainability.

State School Aid and Integrated Property Tax Relief

When the Legislative Assembly convened in January 2013, the principal education funding package contained a new proposal for funding elementary and secondary education, which included property tax relief provided through an integrated formula. Introduced as House Bill No. 1319, the new proposal was defeated on the morning of the 80th day of the legislative session, but the content was attached later as an amendment to House Bill No. 1013 and enacted. The legislative appropriation for the state school aid program followed substantially the executive budget recommendation to integrate property tax relief in the K-12 state school aid funding formula. The formula change discontinued the mill levy reduction grant program and provided the state would determine an adequate base level of support necessary to educate students by applying an integrated payment rate to the weighted student units. This base level of support would be provided through a combination of local tax sources, local revenue, and state integrated formula payments. The local funding requirement was set at 60 mills and a percentage of identified local in lieu of property tax sources and local revenues. Base level support not provided by local sources would be provided by the state through the integrated formula payment. In addition, school districts were allowed an additional 10-mill levy for general fund purposes, an additional 12-mill levy for miscellaneous purposes, and a 3-mill levy for a special reserve fund. The legislation provided for a district's weighted student units to be multiplied by integrated formula payment rates of $8,810 during the 1st year of the 2013-15 biennium and $9,092 during the 2nd year, an inflationary increase based on total expenditures per student suggested by Picus during the 2008 study conducted for the North Dakota Commission on Education Improvement.

Minimum and maximum payment levels were established using a statutorily defined baseline funding level that included:

- All state aid received by the district in accordance with North Dakota Century Code Chapter 15.1-27 during the 2012-13 school year;

- The district's 2012-13 mill levy reduction grant, as determined in accordance with Chapter 57-64, as it existed on June 30, 2013;
- An amount equal to that raised by the district's 2012 general fund levy or that raised by 110 mills of the district's 2012 general fund levy, whichever is less;
- An amount equal to that raised by the district's 2012 long-distance learning and educational technology levy;
- An amount equal to that raised by the district's 2012 alternative education program levy; and
- Amounts equal to percentages, ranging from 75 to 100 percent of various local revenues and in lieu of property tax collections.

From this base level of support, the legislation called for a subtraction of 60 mills multiplied by the district's taxable valuation, not to exceed the amount in dollars subtracted the prior year plus 12 percent, and a subtraction of the specified portion of the various local revenues and in lieu of taxes included in school districts' baseline funding. Base level support not provided by these local sources is provided by the state through the integrated formula payment.

School district boards had been authorized to levy an amount sufficient to cover a multitude of expenses; however, the enactment of House Bill No. 1013 (2013) provided for the consolidation of these levies. The bill authorized the board of a school district to levy:

- A tax not exceeding the amount in dollars the school district levied for the prior year, plus 12 percent, up to a levy of 70 mills on the taxable valuation of the district, for any purpose related to the provision of educational services;
- No more than 12 mills on the taxable valuation of the district, for miscellaneous purposes and expenses;
- No more than 3 mills on the taxable valuation of the district for deposit into a special reserve fund; and
- No more than the number of mills necessary, on the taxable valuation of the district, for the payment of tuition.

In 2015, the Legislative Assembly approved Senate Bill No. 2031 which provided increases in the integrated payment rate of 3 percent per year during the 2015-17 biennium and removed the sunset clause on the K-12 integrated formula for state school aid, adopted by the 2013 Legislative Assembly.

In 2017, due to revenue shortfalls, there were no increases in the integrated formula payment and the Legislative Assembly approved House Bill No. 1324, which set the integrated payment rate at $9,646 for each year of the 2017-19 biennium, the same as the 2nd year of the 2015-17 biennium.

In 2019, the Legislative Assembly approved Senate Bill No. 2265, which included adjustments to phase in on-time funding for fall enrollment; reset baseline funding to the 2018-19 school year; adjust baseline funding for districts that become elementary school districts; phase out transition minimum adjustments; increase the per student payment rate by 2 percent each year of the biennium; phase in increases in local property tax deductions to transition all districts to a deduction of 60 mills; reduce the deduction for in lieu of revenue to 75 percent for all revenue types listed; exempt certain tuition payments from the formula; and reduce all in lieu of revenue types by the percentage of mills levied by the school district for sinking and interest relative to the total mills levied.

In 2021, the Legislative Assembly approved House Bill No. 1388 which included the average daily membership (ADM) of students enrolled in virtual instruction for state school aid and amended the state school aid funding formula to phase in school size weighting factor increases; adjust the school size weighting factors for school districts that do not have a high school and for school districts that operate multiple buildings at least 19 miles apart; increase the integrated formula payment rate by 1 percent each year of the biennium; and phase out transition maximum adjustments to the state school aid formula. In 2021, the Legislative Assembly also approved bills to allow school districts to temporarily transfer excess ending general fund balance funds, accruing as a result of the COVID-19 pandemic, between the general fund and the building fund of the school district (House Bill No. 1028); phase out the deduction of tuition received through federal impact aid funds in the state school aid formula (House Bill No. 1246); suspended the ending fund balance limit through June 30, 2023 (Senate Bill No. 2165), and exclude federal impact aid from the excess ending fund balance deduction (Senate Bill No. 2165).

In 2023, the Legislative Assembly approved Senate Bill Nos. 2013, 2015, and 2284, and House Bill No. 1238 which provided various changes to the state school aid formula. Senate Bill No. 2015 was replaced by Senate Bill No. 2398 when the Legislative Assembly met in a special session in October 2023. The Legislative Assembly approved state school aid formula changes during the regular and special session to increase the special education weighting factor; fully implement on-time funding for fall enrollment; adjust the school district size weighting factor for reorganized school districts that operate multiple K-12 buildings at least 14 miles apart or multiple buildings at least 14 miles apart with no replicated grades; increase the integrated formula payment rate 4 percent each year of the biennium; eliminate transition maximum adjustments; exempt tuition for high-cost and special education students from deduction in the state aid formula; adjust the phase-out of transition minimum adjustments; and extend the moratorium on the deduction of excess unobligated general fund balances from state aid until July 1, 2027.

Foundation Aid Stabilization Fund

In 2015, the Legislative Assembly approved Senate Concurrent Resolution No. 4003, which proposed a constitutional amendment to allow the Legislative Assembly to appropriate or transfer the principal balance of the foundation aid stabilization fund in excess of 15 percent of the general fund appropriation for state school aid for the most recently completed biennium for education-related purposes. The resolution was approved by voters in November 2016. Due to revenue shortfalls during the 2015-17 biennium, the Governor ordered two allotments totaling 6.55 percent and transfers from the foundation aid stabilization fund to offset foundation aid reductions made by executive action totaled $116,053,293.

In 2017, the Legislative Assembly approved Senate Bill No. 2272 and House Bill No. 1155, which amended Section 54-44.1-12 to provide any reductions to the general fund appropriation to the Department of Career and Technical Education for grants to school districts due to allotment also are offset by funding from the foundation aid stabilization fund. In addition, Senate Bill No. 2272 created a new section to Chapter 54-27 to provide for purposes of Section 24 of Article X of the Constitution of North Dakota, education-related purposes means purposes related to public elementary and secondary education and state aid to school districts means general fund appropriations for state school aid, transportation aid, and special education aid in the DPI, as well as general fund appropriations to the Department of Career and Technical Education for CTE grants to school districts and area centers.

In 2023, the Legislative Assembly provided $2,381,774,851 for integrated formula payments, transportation aid, and special education grants for the 2023-25 biennium, of which $510,860,000 is from the state tuition fund, $157,000,000 is from the foundation aid stabilization fund, $13,993,086 is from the strategic investment and improvements fund, and $1,699,921,765 is from the general fund. In addition, general fund appropriations to the Department of Career and Technical Education for CTE grants to school districts and area centers total $41,537,780 for the 2023-25 biennium. Based on this level of funding from the general fund during the 2023-25 biennium, the required foundation aid stabilization fund reserve balance for the 2025-27 biennium will be $261,218,932.

Elementary and Secondary Education State Aid Formula - Selected Provisions

The task force reviewed the impact of select changes made to the state school aid formula and whether changes have resulted in more school districts moving onto the formula.

School District Hold Harmless Calculations - Transition Minimum and Maximum Adjustments

The task force reviewed the use of transition minimum and maximum adjustments in the state school aid formula. When the state school aid formula was implemented during the 2013-15 biennium, hold harmless calculations were included to avoid disrupting school budgets. Districts with transition minimum and maximum adjustments are not considered to be on the state school aid formula.

Transition maximum adjustments applied to those districts that were funded below the per student payment rate in the 2012-13 base year when the formula was implemented. In 2021, the Legislative Assembly provided for the phase-out of transition maximum adjustments to the state school aid formula over 5 years, beginning in the 2023-24 school year. In 2023, the Legislative Assembly eliminated transition maximum adjustments beginning July 1, 2023, at an estimated cost of $15 million.

Transition Minimum Adjustments

Transition minimum adjustments apply to those districts that were funded above the per student payment rate when the formula was implemented. Districts above the formula amount received a transition minimum to hold the districts harmless under the new formula. Two hold harmless minimum calculations--baseline funding per weighted student unit and total baseline funding dollars--guaranteed school districts would not receive less funding per weighted student unit or in total than the funding received during the 2012-13 school year. The total dollar baseline guaranteed funding regardless of enrollment decline and the per student baseline provided a district could not receive less money per student than the district received in the 2012-13 school year, even if the per student payment from all sources exceeded the formula per student payment. In addition, new students generated the same per student funding as the baseline set during the 2012-13 school year. In 2019, the Legislative Assembly reset school district baseline funding to the 2018-19 school year which, for districts receiving minimum payments, was the same minimum based on the 2012-13 school year.

In 2019, the Legislative Assembly approved a plan to bring all transition minimum school districts onto the formula over the next 7 years. Provisions were made to begin phasing out the dollar amount transition minimum by reducing the adjustment beginning in the 2021-22 school year. Formula changes also reduce the amount by which the district's baseline funding per weighted student unit exceeds the payment provided per weighted student unit each year beginning in the 2021-22 school year. Weighted student units over the baseline weighted student units are reimbursed at the formula payment rate, instead of the baseline funding per weighted student unit rate.

The Legislative Assembly recognized smaller school districts do not benefit from the economies of scale of larger school districts and school districts in certain sparsely populated areas of the state are considered essential to avoid unreasonable travel times for students. In 2021, the Legislative Assembly approved the phase-in of school size weighting factor increases over 7 years beginning with the 2021-22 school year.

The task force reviewed the impact of the phase-out of transition minimum adjustments and the increased school size weighting factors. The task force was informed:

- The number of school districts receiving additional transition minimum funding decreased from 98 school districts during the 2013-14 school year to 64 school districts during the 2023-24 school year and total funding for transition minimum adjustments decreased from $42.8 million to $19.3 million over the same period. Because the transition minimum phase-out is a percent of the difference between the transition minimum and the formula, the number of districts receiving the transition minimum adjustment is not impacted by the phase-out. The decrease in the number of school districts receiving the transition minimum funding likely is due to holding transition minimum funding even while providing increases in the per student payment rate of the school districts on the formula.
- Only 16 school districts in the state do not qualify for a school size weighting factor that allows school districts with fewer than 900 students to use a sliding scale to calculate a larger than actual student enrollment. When completely phased in, the sliding scale will use varying weighting factors to generate up to a 1.72 factor for school districts with fewer than 110 students.
- During the 2022-23 school year, there were 12 school districts, not including reorganized districts, receiving transition minimum adjustments, ranging from $716,918 to $7,409,830, which will be phased out over the next 5 years, through the 2027-28 school year.

Reorganized and Consolidated School Districts

In 2021, the Legislative Assembly adjusted the school size weighting factors for school districts that do not have a high school and for school districts that operate multiple buildings at least 19 miles apart. In 2023, the Legislative Assembly allowed reorganized school districts that operate multiple K-12 buildings at least 14 miles apart or multiple buildings at least 14 miles apart with no replicated grades to determine the school size weighting factor for each building separately. The factor is not adjusted for elementary school buildings until June 30, 2028.

The task force reviewed the impact of transition minimum reductions on reorganized and consolidated school districts and weighting factors for consolidated districts that have multiple buildings in the district. The task force was informed:

- For school districts that merge, school size weighting factors are applied as if the districts continued as separate school districts for 4 years. Proportional adjustments are made in the 5th and 6th years, so beginning in the 7th year, the factor is applied as if the districts are one school district.
- There have been 31 school district reorganizations in the state since 1990. During the 2022-23 school year, 20 reorganized school districts received transition minimum funding totaling $10.9 million. Of the 20 school districts, 6 school districts are projected to be on the formula during the 2024-25 school year.
- There are six school districts funding two separate plants at least 14 miles apart and receiving transition minimum funding. These districts receive the benefit of a school size weighting factor calculated separately for each building and through June 30, 2028, there is the added benefit of no adjustment for elementary school buildings. Transition minimum funding for these districts during the 2022-23 school year, before the 30 percent reduction for the phase-out of transition minimum funding, ranged from $470,383 to $2,049,532. These transition minimum funding amounts will be phased out over the next 5 years.
- There are an additional eight school districts that operate multiple plants less than 14 miles apart, of which three school districts received transition minimum funding ranging from $609,544 to $1,071,669.
- While 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.
- Virtual schools offer courses when a teacher is not available and have allowed some small school districts to avoid consolidation.

Property Tax and In Lieu of Revenue Deductions in the State School Aid Formula

The task force reviewed the impact of local property tax and in lieu revenue contributions on the state school aid formula.

The task force was informed effective after June 30, 2025, or beginning with the 2025-26 school year, all school districts will be deducted 60 mills in the school funding formula and there will no longer be a 12 percent limitation on deduction increases. However, Section 57-15-14.2, which provides for property tax assessments, will continue to limit the increase in assessments to 12 percent each year, potentially limiting the amount school districts can assess to less than what will be deducted in the formula. Removing the 12 percent limitation on assessments would allow all school districts to assess up to 70 mills, of which 60 mills is deducted in the formula.

The task force was informed the homestead and disabled veterans' property tax credits are deducted in the state school aid formula as local contributions from in lieu of property tax revenue. However, the property value collected by the Tax Department includes the taxable valuation of the property eligible for the homestead and disabled veterans' credits. To avoid duplication in the local contribution deducted in the state school aid formula, DPI must use a taxable valuation net of property eligible for the homestead and disabled veterans' credits. If the homestead and disabled veterans' credits were not deducted as in lieu of property tax revenue, DPI would be able to use the Tax Department's valuations to determine the 60-mill deduction in the formula without having to make adjustments for the related property values. The task force was informed because the Tax Department has tools to review valuation data that are not available to DPI, aligning the department's taxable valuation data with the information collected by the Tax Department would increase accuracy.

The task force was informed property values related to other property tax pilot programs that incentivize business may require adjustments to a school district's total property valuation before determining the 60-mill deduction and 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.

Excess Ending Fund Balance Deduction

The task force reviewed the excess ending fund balance deduction and the impact of the state school aid formula on school districts' ending fund balances. The ending fund balance of a school district is limited under Section 15.1-27-35.3 to 35 percent of its actual expenditures, plus $50,000 ($100,000, if the district is in a cooperative agreement for 2 years). State school aid is reduced by the amount by which a school district's ending fund balance exceeds the limit. In 2021, the Legislative Assembly approved House Bill No. 1028 to allow a school district that transferred funding from its general fund to its building fund between March 13, 2020, and July 1, 2020, for the purpose of avoiding an excess fund balance deduction to its state school aid, and to return the funding to its general fund, if the transfer was done before June 30, 2021. In addition, the Legislative Assembly approved Senate Bill No. 2165 (2021) to amend Section 15.1-27-35.3 to suspend the ending fund balance limit through June 30, 2023, and adjust the calculation of school district ending fund balances to exclude federal impact aid before deducting the excess balance from state aid formula payments. In 2023, the Legislative Assembly, in House Bill No. 1238, extended the moratorium on the deduction of excess unobligated general fund balances from state aid formula payments until July 1, 2027.

The task force was informed in lieu of property tax revenue is deducted in the state school aid formula in the year following the receipt of the revenue. When a school district's local revenue varies widely from year to year, a large increase in revenue in one year results in a lower state school aid payment the next year. If the school district maintains the extra funding in its general fund to cover the reduction in the next year, the additional funding in the general fund may result in an excess ending general fund balance deduction in the formula. Large school districts typically are not impacted by the excess ending general fund balance deduction. School districts with oil and gas tax and federal flood revenue are more prone to irregular revenue deposits and more often subject to the excess ending general fund balance deductions. School districts may transfer excess funding to a building fund to avoid the deduction; however, building fund uses are restricted and funds cannot be transferred back to the general fund.

The task force was informed from 2013 through 2021, the number of school districts subject to the excess ending general fund balance deduction ranged from 8 to 14 school districts. Except for the 2019-20 school year, the total formula deduction averaged just over $1 million per year. The late receipt of federal flood funds by one school district increased the total deduction to $4.6 million during the 2019-20 school year. Due to increases in funding from the federal Elementary and Secondary School Emergency Education Relief (ESSER) Fund in 2020 and 2021, deductions for excess ending general fund balances were suspended in 2021. School district ending general fund balances have increased by approximately 35 percent since 2020. For the 2023-24 school year, if the general fund balance limitations were not suspended, 59 school districts would have exceeded their general fund limit. The task force was informed school districts may be carrying larger balances due to general fund savings from ESSER funding and the absence of a penalty for the larger ending general fund balances.

TRANSPORTATION AID FOR ELEMENTARY AND SECONDARY EDUCATION

The task force reviewed transportation aid for elementary and secondary education, including how the aid is determined and distributed, school district transportation costs, and reimbursements. The Department of Public Instruction reimburses school districts for a combination of miles and rides for three types of routes, including to and from school, special education, and career and technical education. Extracurricular transportation and transportation for open enrolled students or students with no-charge tuition agreements are not reimbursed. Funding is provided on a payment schedule throughout the school year, based on the prior school year miles and rides. Transportation costs include operating costs and equipment purchases amortized over 8 years. In addition to the transportation reimbursement, the state school aid formula includes a weighting factor and a minimum ADM for school districts with low enrollment in areas that cover 275 square miles and 600 square miles, respectively.

The task force was informed:

- During the 2022-23 school year, statewide reimbursement totaled approximately $24.9 million, or 31.8 percent of the total cost of $78.4 million reported statewide. Reimbursements are limited to 90 percent of expenditures. 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. Reimbursement rates are set to provide reimbursement within the funding appropriated by the Legislative Assembly.
- During the 2022-23 school year, 11 school districts received reimbursements of less than 30 percent of expenditures and 12 school districts received reimbursements in excess of 80 percent of expenditures. Statewide, the reimbursement percentage has decreased in recent years because school districts are no longer reimbursed for transporting open-enrolled students.
- Using 2023 transportation data, if the state were to increase the transportation reimbursement to 50 percent of eligible transportation expenditures, the total reimbursement would be approximately $39.2 million per year, or $14.3 million more per year than the current formula. State reimbursement of 70 percent of eligible transportation costs would require an additional $30 million per year, for a total cost per year of $54.9 million.
- While the block grant funding mechanism is easy to understand and administer and provides local control over the use of the funds, it does not include inflationary factors and is not connected to actual cost. Transportation challenges vary by school district, and increasing funding, without addressing differences in school districts, would treat all school districts the same. Reimbursing school districts across the state at the same percentage of expenses may not produce desired efficiencies.
- The department collects transportation data from two reports in the state automated reporting system, a vehicle inventory report and a transportation route report. The information reported includes vehicle inspection information, capacity, and identification numbers; route type; nonreimbursable and reimbursable miles; ridership; and maximum ride times.
- The bus driver shortage is not unique to the state or to school size and new regulations and competing jobs have contributed to shortages everywhere.

The task force was informed Senate Bill No. 2284 (2023) appropriated $5,000 from the general fund to the University of North Dakota (UND) for a school transportation study. The task force reviewed the UND transportation study and possible models to link transportation reimbursements to the state school aid per student payment rate. The task force was informed UND was commissioned to replicate a 2012 analysis on more current 2022 data. The University of North Dakota 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 variables analyzed were based on the prior analysis and data provided by DPI. The University of North Dakota tested four models, which ranged from 79 to 93 percent accurate. The expected cost 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. However, expected cost models produced outliers with dramatically higher or lower than expected funding amounts and regularly overestimated expenditures. It was reported a statistical model that would reliably predict school district transportation cost may be too complicated to implement.

The task force reviewed a transportation focus group proposal to integrate transportation funding into the state school aid formula. A stakeholder group used the UND study to develop a proposal to integrate transportation funding into the state school aid formula and DPI calculated various funding scenarios. The task force was informed:

- The proposal converts factors, including large and small bus miles and runs, land area, number of schools, and family transportation, to weighted student units, which are applied to the per student payment rate to determine the reimbursement. Factors for number of schools and land area were validated in the UND analysis and are available for DPI to include in the formula and weighting factors allow for adjustments. A factor related to miles of gravel road was discussed, but it was determined that distinguishing types of roads added reporting risk.

- In the proposal, transportation and weighting factors were adjusted to generate a total reimbursement that would align with the $58.1 million appropriated for transportation grants during the 2023-25 biennium. The proposal did not decrease funding for individual school districts, but some districts reached the reimbursement limit of 90 percent of expenditures.
- Reimbursements under the current formula have been approximately $25 million per year for the 2023-25 biennium, and DPI estimates there will be unspent funding related to transportation grants. The cost of the proposal to integrate transportation funding into the state school aid formula, as presented in the analysis, would be $61.2 million, an increase of approximately $3 million per biennium compared to the 2023-25 biennium appropriation for transportation grants, or an increase of approximately $10 million per biennium compared to estimated reimbursements for the 2023-25 biennium. If the per student payment rate is increased in 2025, the fiscal impact of the proposal would be higher.
- A more comprehensive model would require additional data collection and the potential use of technology to avoid reporting and data integrity issues. GPS data collection programs are available to school districts, however the factors included in the formula would have to be identified before GPS data collection programs could be evaluated. If the funding model is adopted, reimbursable schoolbus runs would need to be more clearly defined.

The task force was informed that aside from emissions-related grants, there is no funding assistance available for the purchase of schoolbuses. The task force reviewed the ability of state procurement to bid schoolbuses. The task force was informed because statutory authority for cooperative purchasing exists in Chapter 54-44.4, related to state purchasing practices, and in Chapter 15.1-09, related to school boards, 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. The Office of Management and Budget is staffed to meet the procurement needs of state government; however, political subdivisions may benefit from some state contracts. Coordinating the needs and specifications for school district buses would require additional school district and OMB employee resources. Cooperative purchasing may also save school districts money on other commonly used items.

SPECIAL EDUCATION CONTRACT REIMBURSEMENTS

The task force reviewed DPI reimbursements for high-cost students. The task force was informed a school district's maximum responsibility depends on the student's placement. When a student is placed in a residential setting by an agency or a parent, school districts are reimbursed for costs exceeding the state average cost of education per student. When a student is placed by the school district, state reimbursement is made for costs exceeding four times the state average cost of education per student, or $56,080 for elementary students and $60,213 for secondary students during the 2023-24 school year. School districts also are reimbursed for costs exceeding 2 percent of the total school district budget. In 2023, the Legislative Assembly exempted special education tuition from deduction as local revenue in the state school aid formula.

The task force reviewed special education contract reimbursements and school district accountability related to special education funding. The task force was informed:

- 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. The decrease in funding is due to changes to the DPI student contract reference guide. 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 student contract reference guide was revised 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.
- 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 excess cost threshold of four 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.
- 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.

SCHOOL CONSTRUCTION CHALLENGES AND FUNDING MODELS

The task force reviewed information regarding an overview and history of school construction finance in the state. The task force was informed:

- In 1889, the Constitution of North Dakota 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. Before 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.

- Because certificates of indebtedness are not paid from a property tax source, the certificates of indebtedness do not count against the debt limit. A school district election is not required because certificates of indebtedness allow school districts to borrow against any federal or state stream of revenue and there is no tax increase.
- 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 nonprofit corporations and may 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 the project is approved by 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.

The task force reviewed information regarding the history and status of the Bank of North Dakota school construction assistance revolving loan fund. The task force was informed:

- 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. 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. In 2019, the Legislative Assembly transferred $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 addition to lower interest costs, school districts using the school construction assistance revolving loan fund save interest over the construction period and bond issue costs.
- 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.
- There were 3 requests for loan increases related to the new maximum revolving loan amounts totaling $48.1 million and 3 requests for coal development trust fund loans related to the new authorization for loans related to unanticipated construction inflation totaling $8.7 million.
- As of February 1, 2024, there were $314.7 million of loans outstanding in the school construction assistance revolving loan fund and approximately $8.6 million was available for new loans. The Bank anticipated repayments through June 2024 will total $14.9 million, making approximately $23.5 million available for loan applications due in March 2024. Based on the current portfolio, the Bank estimates $29.4 million will revolve annually, making $58.7 million available for loans each biennium. Increasing the loan limits to the tiered system of $15 million and $30 million may result in fewer loans being available each biennium. Loans are prioritized by DPI.
- Additional deposits into the school construction assistance revolving loan fund in each of the next 2 bienniums of $75 million ($150 million total) or $100 million ($200 million total), would allow the fund to generate $130 million or $150 million of revolving funds for new loans each biennium, respectively.

The task force reviewed stakeholder information regarding outdated facilities, deferred maintenance, the impact of inflation on school construction projects, and the challenges of securing local funding for school construction. The task force was informed:

- Many school districts identified aging facilities and deferred maintenance as the number one challenge facing school districts. While many districts have not done a facility assessment, the districts report inadequate or obsolete facilities, including structural, plumbing, security, accessibility, and heating and cooling system deficiencies.

- Facility assessments are important to identify deferred maintenance costs across the state; however, standards for conducting and reviewing assessments have not been established. Some states require school districts to perform periodic facility assessments.
- Information from the North Dakota Insurance Reserve Fund indicates the average age of school buildings in the state is 55 years; however, some of the ages are based on the latest renovation and not the original build date. The total estimated value of school buildings was $4.8 billion and there were 343 school or education-related buildings with varying classifications and descriptions.
- Based on a stakeholder school construction survey, 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.
- Some school districts lack financial resources and do not have the property tax base to support a bond issue. The composition of taxable property varies greatly by school district and impacts the ability to raise funds for construction. Based on 2022 valuations, agricultural land made up 19.1 percent of the total statewide taxable valuation; however, in smaller rural districts, agricultural land can make up a significantly larger portion of the taxable valuation in the school district, which results in a larger tax burden for fewer taxpayers. Sales tax could be a viable source for some school districts, but others would be unable to generate enough sales tax revenue to pay for needed projects.

Funding Models

Local in Lieu of Property Tax Revenue

The task force reviewed information regarding an option to allow school districts to keep more local in lieu of property tax revenue for school construction. The task force was informed school districts are able to reduce all in lieu of property tax revenue types by the percentage of mills levied by the school district for sinking and interest relative to the total mills levied before deducting 75 percent of the revenue in the state school aid formula. The task force reviewed an alternative option that would allow school districts to choose to use a percentage of the in lieu of property tax revenue, based on the percentage in lieu of property tax revenue represents of the total local contribution deducted in the state school aid formula, for school construction. The amount allowed for school construction would be exempt from deduction in the state school aid formula in a similar manner as the funding allocated to the sinking and interest levy exemption. School districts could compare the deduction and total state aid under the current percent of sinking and interest levy exemption and the deduction under the option to use the percent of in lieu of property tax revenue exemption and elect the method that provides the lower local revenue deduction. The in lieu of property tax revenue exemption would be limited to a bond payment and the exemption would not extend beyond the life of the bond. The proposal to exempt additional in lieu of property tax revenue from deduction in the state school aid formula would cost the state approximately $8 million per year or $16 million per biennium. The task force was informed large variances in local revenue from one year to the next will make managing the exemption election a challenge for DPI and the school districts. There are no restrictions on the use of revenue currently exempted from deduction in the formula based on the sinking and interest mill levy. There also is no restriction on the use of the 25 percent of local in lieu of property tax revenue retained by school districts.

Kansas School Construction Funding Model

The task force was informed Kansas school districts may levy local property tax 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. For school districts above the median AVPP, state aid decreases.

When determining equalization aid for capital improvements, Kansas uses a different formula for bonds before 2015 and bonds after 2022. State aid for bonds before 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 and the lowest ranked district, not on federal property, is eligible for 51 percent state aid. The percent of state aid decreases as the AVPP of the school district increases. 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. School districts with fewer than 260 students are not eligible for state aid; however, 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.

Wyoming School Construction Funding Model

The task force was informed Wyoming assesses building needs and pays for the cost of new buildings. 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. Statutorily, the School Facilities Division is responsible for long range facility plans for each school district every 2 years; however, the division anticipates it will evaluate facilities in all 48 school districts and 8 charter schools, including land and building leases, annually 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 by a consultant. The division uses a facility condition index to determine which facilities need to address deferred maintenance. 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 they determine the educational space is inadequate.

In Wyoming, 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; offsite 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. The cost of the most recent statewide facility condition assessment was approximately $3 million, not including an additional $1 million for 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 Wyoming legislature is considering enacting universal definitions for routine and major maintenance.

The task force was asked to consider legislative action including 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.

Task Force Considerations and Recommendations

The task force considered adjustments to certain elementary and secondary state school aid formula provisions; a proposed transportation aid formula linking transportation aid to the state school aid per student payment rate; special education contract reimbursements; and various school construction funding models. The task force determined information gathered by the task force could be used by legislators as a basis for bills they may choose to introduce for consideration by the 2025 Legislative Assembly.

The task force makes no recommendation related to its review of the elementary and secondary education state aid formula, transportation aid for elementary and secondary education, special education contract reimbursements, and school construction.

OTHER REPORTS AND INFORMATION RECEIVED BY THE TASK FORCE

Status of State School Aid - 2023-25 Biennium

The task force received reports from DPI regarding student enrollment and the status of funding for state school aid for the 2023-25 biennium.

Funding provided for integrated formula payments during the 2023-25 biennium was based on projected 2023-24 school year ADM of 117,068 students and projected 2024-25 school year ADM of 118,530 students. In 2023, the department estimated state school aid integrated formula payments would total $3.072 billion during the 2023-25 biennium, of which $684 million was related to local property tax contributions, $110 million to local in lieu of taxes and revenue contributions, and $2.278 billion to be provided by the state. In addition to the state's share of state school aid integrated formula payments, the appropriation for 2023-25 biennium integrated formula payments included funding for costs related to child placement, regional education association grants, the gifted and talented program, estimated cross-border tuition payments to South Dakota, and budget variances. The department estimated these expenditures and budget variances to total $22 million for a total of $2.3 billion included in the integrated payment line item for the 2023-25 biennium. In 2023, based on total estimated integrated formula payments, the state's share of funding for the state school aid formula was anticipated to total approximately 74 percent during the 2023-25 biennium.

The task force was informed actual state school aid for the 2023-24 school year, based on 2023-24 school year ADM of 116,551 students, will total $1.492 billion, of which $333.5 million, or 22.4 percent, is provided by local property tax, $65.5 million, or 4.4 percent, is provided by local in lieu of revenue, and $1.093 billion, or 73.2 percent, is provided by the state through integrated formula payments. State school aid for the 2024-25 school year, based on revised estimated 2024-25 school year ADM of 117,531 students is estimated to total $1.557 billion; of which $354 million, or 22.7 percent, is estimated to be provided by local property tax; $64 million, or 4.1 percent, is estimated to be provided by local in lieu of revenue; and $1.139 billion, or 73.2 percent, is estimated to be provided by the state through integrated formula payments. The local property tax contribution to 2024-25 state school aid is known because it is based on 2023 property values; however, the contribution from in lieu of revenue will not be known until September or October 2024. Lower than anticipated enrollment, higher local in lieu of revenue and property tax than anticipated in the budget, and lower than anticipated impacts from on-time enrollment resulted in budget savings of $15.5 million during the 2023-24 school year. Based on preliminary estimates, state school aid payments for the 2nd year of the biennium are anticipated to be $29.7 million less than budgeted. Based on enrollment estimates and estimated local contributions to the state school aid formula, the department estimates unspent 2023-25 biennium appropriations will total approximately $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.

Projected State School Aid - 2025-27 Biennium

Cost to Continue

The task force reviewed a preliminary estimate of funding required to continue current state school aid integrated formula payments during the 2025-27 biennium. The report, prepared by DPI, was based on:

- Lower projected ADM growth, based on a 4-year survival routine (3 changes), 2020-21, 2021-22, 2022-23, and 2023-24.
- Taxable valuation for calendar years 2024 and 2025, calculated based on a 2-year average increase with maximum growth of 8 percent and minimum growth of 0 percent.
- In lieu of property tax revenue contributions to the formula similar to revenue contributions during the 2022-23 school year.
- Other statistical data and weighting factors based on data supporting the 2023-24 payment year.

The task force was informed enrollments are projected to be stable during the 2025-27 biennium and the cost to continue state school aid is anticipated to be approximately $27.8 million less than the 2023-25 biennium appropriation. The department noted projected enrollments beyond the next biennium are anticipated to decline.

The task force was informed, 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 the formula that would become the responsibility of the state.

Other Reports

In addition to the task force's other responsibilities, the task force received reports from:

- The Education Commission of the States regarding membership and services, a state education policy tracking database, state funding models, student and district characteristics, special education, and revenue sources.

- The Center for Distance Education regarding the cost of distance education and enrollment trends, including the impact of teacher shortages and recent legislation prohibiting a resident school district from denying open enrollment to an approved virtual school.
- The North Dakota Council of Educational Leaders (NDCEL) regarding the impact of the elimination of property tax on funding for K-12 education.
- Senator Michelle Axtman, Education Committee Chairman, regarding an update on the Education Committee's school choice study.
- NDCEL regarding the fiscal impact of recent legislation on school districts, including a summary, by school district, of school district meal debt, and Center for Distance Education and mental health services costs.
- The Superintendent of Public Instruction regarding accountability and advancing student outcomes, including a budget training certification program through Georgetown University.
- DPI regarding school districts' use of federal ESSER funds for various programs and options to provide funding for some of these programs from other sources in the future, including federal funds.
- DPI regarding the uses of federal ESSER funds allocated to school districts and discretionary ESSER funds appropriated to DPI, including funds remaining unspent as of September 2024.
- The Central Regional Education Association regarding accountability measures, school improvement programs, and advancing student outcomes.
- NDCEL regarding programs school districts offer that are not measured by accountability standards.