



SCHOOL FUNDING TASK FORCE

Thursday, September 7, 2023
Roughrider 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, Jay Elkin, David S. Rust; Representatives Pat D. Heinert, Jim Jonas, Eric James Murphy, Anna S. Novak, David Richter, Mark Sanford, Cynthia Schreiber-Beck

Members absent: None

Others present: Senators Brad Bekkedahl, Williston, and David Hogue, Minot, members of the Legislative Management

See [Appendix A](#) for additional persons present.

Ms. Sheila M. Sandness, Senior Fiscal Analyst, Legislative Council, presented a memorandum entitled [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

ELEMENTARY AND SECONDARY EDUCATION STATE AID AND FUNDING FORMULA STUDY

Ms. Sandness presented a memorandum entitled [Elementary and Secondary Education State Aid and Funding Formula Study - Background Memorandum](#). She reviewed the responsibilities of the committee, a history of funding for elementary and secondary education in the state, property tax relief related to school funding, prior education finance studies, and the education funding formula adopted in 2013, including amendments to the formula since implementation and impacts of the formula on various school districts. She also provided information regarding the Center for Distance Education (CDE), including prior studies, center administration, and funding; transportation aid grants, including prior studies, a history of funding provided to school districts, and reimbursement rates; special education contracts and high-cost students, including prior studies, costs eligible for reimbursement, funding provided for special education contracts, and challenges related to providing special education and high-cost student services; the foundation aid stabilization fund; and federal COVID-19 relief funding.

Ms. Liz Fordahl, Counsel, Legislative Council, presented a memorandum entitled [School Funding Litigation](#). She noted the state has been involved in two lawsuits related to its public school finance system, including:

- *Bismarck Public School District No. 1 v. State of North Dakota* (1989), in which plaintiffs from nine public school districts alleged, because the state's formula to distribute educational funds was based predominantly on each school district's property tax base, the formula produced inequitable educational opportunities which disadvantaged "property poor" school districts, violating state constitutional provisions regarding education and equal protection. The case was appealed to the North Dakota Supreme Court. Although the Supreme Court's opinion did not provide any strict boundaries to guide legislative policymaking within the contours of constitutional requirements, the court was adamant that only the Legislative Assembly is properly suited to draft education funding. A dissenting argument cautioned the funding scheme, as it was fashioned in 1989, was producing results, which if not corrected, might fail to provide even a "minimum curriculum," thus failing to survive even the most deferential legal standard.
- *Williston Public School District No. 1 v. State of North Dakota*, alleged the system of funding was inadequate and inequitable. The lawsuit was settled when the parties agreed the Legislative Assembly would allocate at least an additional \$60 million to education funding and establish the North Dakota Commission on Education Improvement to review school funding policy.

Mr. Adam Tescher, School Finance Officer, Department of Public Instruction, provided information ([Appendix B](#)) regarding enrollment, state school aid funding, transition minimum adjustments, reorganized school districts, and school districts with multiple plants. He noted:

- The department had \$72.6 million of unspent general fund appropriation authority related to state school aid, transportation grants, and special education contracts at the end of the 2021-23 biennium, of which \$64.4 million was in the integrated formula payment line item and \$8.2 million was in the special education contracts line item. Of the less than estimated spending during the 2021-23 biennium, \$31.7 million related to lower enrollment than projected and \$20.3 million related to more property tax and local revenue deducted in the formula than projected.
- Total budgeted average daily membership for the 2023-25 biennium is anticipated to exceed 2021-23 biennium budgeted average daily membership by 4,786 students.
- Including formula adjustments approved by the Legislative Assembly in 2023, the state aid payment formula budget for the 2023-25 biennium is estimated to total \$1,167.6 million, approximately \$164.5 million more than the 2021-23 biennium state aid payment formula budget.
- The number of school districts receiving additional transition minimum funding decreased from 98 school districts during the 2013-14 school year to an estimated 66 school districts during the 2023-24 school year and total funding for the transition minimum adjustments decreased from \$42.8 million to an estimated \$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.
- 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 at least 14 miles apart funding two separate plants 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, before the 30 percent reduction for the phase out of transition minimum funding, ranged from \$470,383 to \$2,049,532.
- There are an additional eight school districts that operate multiple plants less than 14 miles apart, of which three school districts receive transition minimum funding ranging from \$609,544 to \$1,071,669.
- In addition to the reorganized school districts, another 12 school districts will receive large transition minimum adjustments, ranging from \$716,918 to \$7,409,830, phased out over the next 5 years.

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

- Deducting an average of local in lieu of revenue in the state school aid formula may smooth some of the fluctuations in state aid caused by inconsistent sources of local revenue.
- The task force may consider reviewing taxable valuation used in the formula and funding models for school districts requiring multiple plant locations.
- Funding reductions related to the phase out of the transition minimum adjustment are offset in part by increased school size weighting factors.

Ms. Deven Scott, Director, State Relations, Education Commission of the States, provided information ([Appendix C](#)) regarding Education Commission of the States membership and services, including a state education policy tracking database. She noted:

- Education Commission of the States staff compile summaries and databases on state education policies, including preschool through postsecondary education and workforce.
- The most-used resource is the 50-state comparison. Data points are compiled to allow state-by-state comparisons of numerous topics.

Mr. Chris Duncombe, Senior Policy Analyst, School Finance, Education Commission of the States, provided information ([Appendix D](#)) regarding state funding models, student and district characteristics, special education, and revenue sources. He noted:

- Nationally, state funding provides approximately 47 percent of elementary and secondary revenues, compared to 45 percent provided by local revenues and 8 percent provided by federal funds.

- Based on United States Census Bureau data, in fiscal year 2021, per-student revenue of \$15,140 for public elementary and secondary education in North Dakota exceeded the national average of \$14,347 per student and was the 18th highest in the country. North Dakota's state share of per-student revenue (51 percent) exceeded the national average of state funding per student (47 percent). If the amounts were adjusted for local cost of living differences, the state would compare even more favorably.
- Funding models may be student based, in which school districts receive a base amount of funding per student with additional money or weights added to provide additional support for students with unique needs, or resource based, in which school districts receive funding based on a minimum level of resources, often based on a ratio, such as staffing, services, or programs. A total of 34 states, including North Dakota and the District of Columbia, use a student-based funding model. Of the remaining states, 9 states use a resource-based funding model, 5 states use a hybrid funding model, and 2 states use some other funding mechanism, including a state property tax.
- In 45 states, additional funding is provided for students from low-income backgrounds. Most of these states use free or reduced-price eligibility to identify these students. However, the move to universal free lunch is rendering this metric obsolete, and states have had to look for other measures of eligibility, including direct certification of benefits.
- Performance-based incentives are based largely on two types of outcomes, measures of student performance and early postsecondary completion or industry certification. Student performance can include test scores or proficiency rates or gains.
- Some states use a single special education weighting factor, which does not distinguish between disability categories, and others use multiple weighting factors, which differ based on disability category, placement, concentration, or cost estimate. States also may use reimbursement or staffing-based allocations for special education funding. Twelve states, including North Dakota, apply the special education weighting factor to the overall student enrollment in a school district. Most states allocate funds based on the number of students identified as having a disability. While applying the special education weighting factor to all students can relieve administrative burden and improve planning and budgeting, it may be an inequitable distribution of resources if the proportion of students with disabilities and the cost of special education services is not equal among all districts. North Dakota is one of only 17 states that provides additional special education funding for high-cost services.
- In North Dakota, 26.1 percent of elementary and secondary education funding is provided by property tax revenue. Nationally, property tax revenue provides an average of 36.5 percent of elementary and secondary education funding and funding from property tax ranges from 11 to 62 percent in states.
- Nineteen states dedicate revenue for school construction, including lottery proceeds, gaming tax, sales and use tax, severance tax, land sale and lease proceeds, marijuana sales tax, tobacco settlement proceeds, and other fines and fees.

Mr. Bob Marthaller, North Dakota United, suggested the task force consider the impact of formula changes on school districts of all sizes and continue to support special education services, career and technical education, and student scholarships.

Dr. Aimee Copas, Executive Director, North Dakota Council of Educational Leaders, suggested the task force consider the impact of school choice on school funding, equity in school construction funding, staffing requirements and mandates, and whether success should be measured by test scores or whether students are "choice-ready."

In response to questions from committee members, Dr. Copas said the North Dakota Council of Educational Leaders would be willing to update a previous survey regarding school construction plans and bonding.

Mr. Mike Heilman, Executive Director, North Dakota Small Organized Schools, suggested the task force consider how the funding model impacts small school districts, challenges small school districts face when trying to generate property tax funding for school construction projects, whether weighting factors reflect school district inefficiencies, consolidation incentives and impacts, and school transportation challenges.

Dr. Alyssa Martin, State Director, Center for Distance Education, provided information ([Appendix E](#)) regarding enrollments and the cost of distance education. She noted:

- CDE is a virtual school providing asynchronous education, and students may enroll in a diploma program or in courses, as needed, at any time of the year. On occasion, CDE may provide synchronous education to assist a school district unable to find a teacher.

- The number of students supported by CDE increased from 3,193 during the 2019-20 school year to 3,990 during the 2020-21 school year. Enrollment during the 2022-23 school year was 3,630 students. Students take an average of 2 courses.
- Due to the COVID-19 pandemic, enrollment, or the number of courses taken by CDE students, peaked at 11,396 courses during the 2020-21 school year. Enrollment during the 2022-23 school year was 8,512 courses.
- Enrollment from July 2023 through September 2023 is trending upward and is similar to the same period during the 2nd year of the pandemic. Enrollment increases seem to be driven by teacher shortages and recent legislation prohibiting a resident school district from denying open enrollment to an approved virtual school.
- Based on the CDE budget for the 2021-23 biennium of \$9.4 million, the cost of online asynchronous instruction provided by the center was approximately \$480 per course or \$1,253 per student served. In addition to a general fund appropriation, CDE receives funding for its operations from tuition revenue. The center charges \$229 per course for small school districts, \$259 per course for large school districts and self-pay, and \$329 per course for nonresident students.
- The center is working with New England School District on a synchronous model of instruction and has noted synchronous instruction is more expensive and requires a team teaching environment.

Mr. Jace Beehler, Chief of Staff, Governor's office, provided comments ([Appendix F](#)) regarding the task force's studies. He noted the Governor supports the six long-term outcomes for students, included in the prekindergarten through grade 12 education strategic vision framework ([Appendix G](#)), and outcome achievement be determined by the school districts. He suggested reviewing funding provided through certain weighting factors and whether the funding is used to help students needing those services. He noted the Governor's top priorities include the economics of the cost per student and finding efficiencies, connecting investments to outcomes, and addressing high-cost student services.

Mr. Tescher provided information ([Appendix H](#)) regarding transportation aid for elementary and secondary education. He noted:

- The department 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. Transportation for open enrolled students or students with no-charge tuition agreements is not reimbursed. Funding is provided on a payment schedule throughout the school year, based on the prior school year miles and rides.
- During the 2021-22 school year, school districts reported expenditures totaling \$74.3 million, including expenditures not qualified for reimbursement, or 4 percent of school districts' general fund budgets. During the 2021-22 school year, school districts were reimbursed \$28.6 million. Reimbursements are limited to 90 percent of expenditures.
- State reimbursements provide approximately one-third of statewide transportation expenditures. During the 2022-23 school year, 11 school districts received reimbursements of less than 30 percent of the expenditure reimbursement limit, and 12 school districts received reimbursements in excess of 80 percent of the expenditure reimbursement limit.
- The department collects transportation data from two reports in the state automated reporting system, a vehicle inventory report and a transportation route report. Information reported includes vehicle inspection information, capacity, and identification numbers; route type; nonreimbursable and reimbursable miles; ridership; and maximum ride times.
- The department reviews transportation data for completeness and reasonableness, including significant change or no change in information reported.

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

- While the transportation appropriation did not increase in 2023, fuel and labor costs have been increasing, resulting in a decrease in the percentage of expenditures reimbursed.
- Aside from emissions-related grants, there is no funding assistance available for the purchase of school buses.

Dr. Jeff Fastnacht, Superintendent, Bismarck Public Schools, noted the framework of the formula is appropriate, but the challenge is applying the formula to vastly different school districts across the state. He suggested the task force consider ways to support school districts with low property values by making funding for school construction more equitable.

In response to a question from a committee member, Dr. Fastnacht noted school districts could be evaluated based on property valuation, and school construction funding models could be developed to assist school districts with construction costs. He suggested continuing to increase funding available in the school construction assistance revolving loan fund.

Task force members suggested reviewing how the cost of education is defined, what types of courses the state should support, and how various types of education-related organizations outside of school districts are funded, including CDE, regional education associations, and career and technical education centers.

Chairman Schaible suggested the task force concentrate its efforts on reviewing high-cost students, school construction funding, funding elementary and secondary education without property tax revenue, performance-based funding, and transportation funding.

Chairman Schaible asked task force members to send nominations for task force citizen members to the Chairman and the Vice Chairman for consideration.

No further business appearing, Chairman Schaible adjourned the meeting at 4:50 p.m.

Sheila M. Sandness
Senior Fiscal Analyst

ATTACH:8