

SCHOOL FUNDING TASK FORCE

Minutes of the 3rd Meeting of the 2021 Interim

August 9, 2021

Call to Order and Roll Call

The 3rd meeting of the School Funding Task Force was held on Monday, August 9, 2021, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative James Tipton, Co-Chair; Senators Reginald Thomas and Mike Wilson; Representatives Kim Banta, Tina Bojanowski, and DJ Johnson.

LRC Staff: Joshua Collins, Cynthia Brown, Yvette Perry, and Christal White.

Guests: Robin Kinney, Chay Ritter, and Chuck Truesdell, KDE; Mike Borchers, Ludlow; Robbie Fletcher, Lawrence County; Brenda Jackson, Shelby County; Davonna Page, Russellville; Eric Kennedy, KSBA; and Jim Flynn, KASS.

On a motion by Representative Thomas and a second by Representative Banta, the minutes of the July 19, 2021 meeting were approved by voice vote.

Overview of School Transportation Funding & Non-Resident Student Funding

Associate Commissioner Robin Kenney, and the Director of Division District Support, Chay Ritter, from the Kentucky Department of Education (KDE) Office of Finance and Operations discussed the distribution of district transportation funding.

Kentucky school buses are driven over 90 million miles annually, transporting more than 362,000 students. Mr. Ritter said schools have more than 8,000 buses; 8,000 bus drivers; 7,000 routes; and 500 inspectors.

Transportation funds are divided into groups based on student population density. The costs are calculated by the average daily attendance of students transported divided by the square miles served. County and independent school districts are determined separately and no independent school district receives an average cost per pupil per day in excess of the minimum received by any county district.

Mr. Ritter explained that in order to calculate the number of students transported, students are divided into transportation codes depending on the frequency of utilizing bus services. To calculate the area of the district, the formula takes the square miles of the district and subtracts any unserved areas, such as those served by other districts or bodies of water. The transportation calculation also takes growth into account, with a comparison of current year versus the prior year in the first two months. Negative growth does not impact funding.

The gross amount spent transporting students to and from school includes transportation-related costs such as supervision, training, operations, bus monitors, and bus maintenance. Other variables are used to determine final calculations regarding transportation funding. Total costs are around \$382 million.

District options to purchase buses include cash, Kentucky Interlocal School Transportation Association (KISTA) bonds, or capital funds requests. Kentucky has 9,137 diesel buses and 106 each of propane and hybrid buses. Bus depreciation is spread over a 14-year period, beginning with a 12 percent depreciation in the first and second years, and a sliding scale ending with 6 percent depreciation in years 11 through 14.

Bus transportation was fully funded before 2004 and funding gradually decreased over the next 10 years. A slight increase was budgeted each year from 2015 through 2019. Current state funding for transportation covers 55 percent of the cost with districts covering nearly \$175 million in school year 2021-22.

The separate vocational transportation budget of \$2,416,900 is based on a cost-per-mile calculation and trip submissions from school districts including trips to vocational schools, work sites, or hospitals.

Districts with residential students attending the Kentucky School for the Deaf (KSD) and Kentucky School for the Blind (KSB) can apply for transportation reimbursement through a legislative appropriation of \$492,300. Districts and cooperatives may work out arrangements involving more than one district and each will receive reimbursement based on their respective mileage. Mr. Ritter said policymakers and all Kentuckians must take this into consideration when public school per-pupil expenditures are compared to non-public school expenditures.

In response to a question by Senator Wise, Mr. Ritter said the bus transportation growth trend over the past two years has remained consistent at 350-360 students per year.

Responding to a question from Representative Johnson, Mr. Ritter said KISTA, which is managed by Rose, Sinclair, & Associates, LLC, is a private entity that issues bonds similar to facility bonds backed by the school districts.

In response to a question by Representative Bojanowski, Mr. Ritter agreed the cost of bus transportation has increased but without additional funding. He said rising cost factors include insurance, bus driver shortage and retention, increased cost of parts, and maintenance labor. Although the bus routing software is expensive for smaller districts, Mr. Ritter said efficiency and effectiveness have greatly reduced costs.

Responding to a question by Representative Tipton, Mr. Ritter will provide the committee with vocational transportation rates. In a follow-up question regarding bus routes with very few students, Mr. Ritter said districts are restricted from purchasing smaller capacity and more efficient vehicles due to safety concerns. Mr. Ritter will inquire if 15-passenger vans are a viable option. In response to a follow-up question, the Volkswagen settlement provided 169 buses to 93 school districts. Currently, there are 350-400 buses in inventory that are 2001 models or older. In another follow-up question, Mr. Ritter said projected transportation costs for 2022 will be reviewed this week after annual financial information is received from the districts, but he does not foresee a drastic increase in transportation costs.

In response to a question by Senator Wilson, Mr. Ritter said sporting activities and field trips are funded through district budgets with schools paying the cost. Subsidizing at the local level is approved by school boards. In a follow-up question, Mr. Ritter will research if the cost of gasoline has an exemption on state or federal fuel taxes.

Superintendent Fletcher said although student density is decreasing in some districts, buses travel the same number of miles. Sports programs raise money for travel expenses in some districts but the policies differ among districts. The Lawrence County Board of Education pays for all extracurricular activities from the general fund. He said the geography of a district can cause a great difference in the amount of extra-curricular miles traveled. In an attempt to clarify how low density population contributes to a low efficiency rating, Mr. Ritter said similar counties are grouped and compete for the same funds. When districts are placed in groups, they then compete within that group where the most efficient benefits. When student populations decrease, the graph-adjusted efficiency formula finds per student costs increasing which negatively impacts the efficiency rating of the school, thereby receiving less funding. Superintendent Fletcher agreed that the geography impacts the costs of operating buses.

Responding to a question from Ms. Page, Mr. Ritter explained the tentative calculation graph in more detail as to how independent districts do not receive an average

cost per pupil day in excess of the minimum received by any county district. Jefferson County has the lowest amount of graph adjustment for any county district. That amount is applied to many independent districts, because it serves as a cap for independent districts. Mr. Ritter offered to provide a sorted copy of the chart for further review.

Non-Resident Student Funding

KRS 157.350 currently only permits districts to include non-resident students in average daily attendance (ADA) totals if the students subject to a written agreement between the nonresident and resident districts. With the passage of 2021 HB 563, all non-resident students may be included in ADA if they are enrolled pursuant to a district policy. ADA determines funding for SEEK and state formula grants, including allowed non-resident students. In many cases, federal funds rely on census data rather than ADA data.

Ms. Kinney said by July 1, 2022, school districts must adopt policies governing the terms under which the districts shall allow enrollment of nonresident pupils by following three guidelines: the policy shall allow nonresident students to be eligible to enroll in any public school located within the district; the policy shall not discriminate between nonresident pupils but allows enrollment capacity to be recognized as determined by the local school district; and the policy shall be filed with the KDE no later than 30 days following its adoption. Beginning on July 1, districts may include nonresident pupils in ADA for SEEK funding purposes pursuant to the above described policies.

By November 1, 2021, KDE shall submit a report to the Legislative Research Commission and the Interim Joint Committee on Education with options on how to ensure the equitable transfer of education funds to allow the funds to follow a nonresident student to a school district of enrollment. The report shall include recommendations on how the amount should be calculated and what mechanisms should be used to conduct the transfer. Ms. Kinney said KDE is working on the logistics.

Several issues are implicated in the change. In determining SEEK funding, the statewide guarantee base funding level shall be computed by dividing the total amount appropriated by the prior year statewide ADA. There can be a one-year lag in ADA funding for non-resident students or new district students which can impact fall growth numbers and transportation. Districts will also need to consider staff contracts and facilities bonding as districts determine how the new non-resident component will look.

The Kentucky Association of School Administrators (KASA) is conducting discussions to provide clarity and suggest refinement in the language of the bill. The discussions include the definition of the capacity of facilities, determinations for the timeline for open enrollment choices to allow for planning and budgeting, how enrollment

is handled without discrimination, if tuition is permissible, if student transportation is required, and constitutional issues regarding local revenue.

In response to a question by Representative Tipton, Superintendent Fletcher said Lawrence County has non-resident agreement contracts as a current practice with surrounding counties with a one-for-one trade. The current transfer waiting list is small but is expected to grow as HB 563 is implemented.

Senator Wilson said the enrollment in rural areas in eastern and western Kentucky has declined while other areas had an influx of people. He said the definition of capacity could be different in areas due to population growth and loss.

Senator Wise emphasized non-resident enrollment without discrimination is extremely important as HB 563 is enacted.

In response to a question by Representative Tipton, Mr. Ritter said SEEK is now a separate appropriation for Eastern Kentucky University's Model Lab students. Before HB 366, those students were included in Madison County's ADA and Madison would pay Model Lab for the students. Because Gatton and Craft Academies do not participate in SEEK, the ADA stays with the home district. Mr. Ritter is unaware of any agreements between the academies and home districts. Superintendent Fletcher said Lawrence County retains all ADA but pays fees and textbooks for students attending the academies. Representative Tipton said some districts do not support students at the academies in that manner. Superintendent Borchers inquired about the possibility of districts charging tuition to offset costs that may be less than the base amount but warned of unintended consequences.

Unfunded Mandates for Schools

Kentucky School Boards Association (KSBA) Director of Advocacy Eric Kennedy and Kentucky Association of School Superintendents (KASS) Executive Director Jim Flynn discussed unfunded mandates for schools.

Mr. Kennedy defined an unfunded mandate as a legal requirement of the state or federal government to which local schools and districts must adhere without state or federal government funding of the action. The requirement may arise in statute, regulation, or agency actions and may be explicitly stated or the result of less explicit programming functions or interpretations. Mr. Kennedy said that key terms to look for are "shall" and "must" and "is required to."

Mr. Kennedy said calculating the cost of state and federal mandates is a challenge. Examples of explicit unfunded mandates are National Board Certified Teachers (NBCT) salary supplements; required professional development for staff; requirements for every school to employ a librarian; a multitude of district reports to KDE imbedded through statute; and a requirement for boards to participate in Classified Employee Retirement System (CERS). Mr. Kennedy said that less obvious examples include building code requirements or updates, the facility construction approval process, training and cost of the MUNIS financial accounting system, and the use of schools as polling places.

Mr. Kennedy said the most notable federal unfunded mandates are embedded throughout the Individuals with Disabilities Education Act (IDEA) and associated regulations. Many groups have lobbied Congress to increase funding to pay for the mandates in that program.

Mr. Kennedy said that other unfunded mandates include the McKinney-Vento Homeless Assistance Act; the Every Student Succeeds Act (ESSA) mandates associated with assessment and accountability; students in foster care, and providing transportation for transient students.

Mr. Kennedy said that quantifying the entire amount of unfunded mandates is similar to the challenging issue faced by the Task Force on Tax Expenditures. One simple amount is the \$1.6 million of unfunded costs for the National Board Certified Teacher stipend, or 37 percent of the total cost in school year 20-21. A difficult amount to quantify would be the cost of requiring the use of MUNIS. Mr. Kennedy suggested smaller schools may benefit from using a less expensive and intensive accounting program but it is difficult to quantify. He said the intangible cost of complexity is a growing issue.

Mr. Kennedy said a key point to remember is despite not being able to calculate an exact dollar figure for all state and federal unfunded mandates, the cost is paid largely by local tax revenue.

Responding to a question from Representative Banta, Mr. Kennedy said districts would benefit from reviewing professional development requirements in state law. Structuring hours and finding another approach may be more feasible.

Responding to a question by Mr. Truesdell, Mr. Kennedy said state and federal unfunded or underfund mandates create a disadvantage for small districts.

Responding to a question from Representative Tipton, Mr. Kennedy said statute already allows for two schools to share a librarian. But there could be more different approaches to address the issue that would not be an unfunded mandate.

Representative Bojanowski noted that one training, the Active Shooter Training, is only required of public schools and that the protection of all students is important and perhaps the mandate should also apply to private schools.

Representative Johnson suggested working identifying and reducing the unfunded mandates and the number of unneeded reports.

Mr. Flynn suggested unfunded mandates should be reviewed and eliminated as a legislative priority. He said the average district has gone from 40 percent of SEEK funding coming from local sources to 52 percent. He encouraged a strong commitment to increase the SEEK base amount to address underfunded or unfunded mandates, making a commitment to fund every mandate for the life of the mandate, and instituting a school impact statement for mandates and fiscal impacts.

Responding to a question from Senator Wise, Mr. Flynn said fully funded education should include increasing SEEK to keep up with inflation, fully funding transportation and textbooks, investing in early childhood education and wellness, requiring universal preschool, preparing students for a career, and improving school facilities.

Representative Tipton said tax modernization is needed at every level, from the state to county and school board levels. He said the task force is working to identify needs and concerns, make informed decisions, and review the local impacts.

Senator Thomas requested a detailed analysis of transportation in comparison to other states, how add-ons differ from state to state, and provide adequate and appropriate funding for the SEEK formula.

Senator Wise reminded the committee that the OEA report will be available in a few months for the insight and analysis that interests Senator Thomas.

The next meeting of the School Safety Task Force will be September 13 at 10:00 AM.

With no further business before the committee, the meeting adjourned at 12:15 PM.