

# bulletin

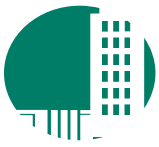


**NDSBA**  
NORTH DAKOTA SCHOOL  
BOARDS ASSOCIATION

MARCH 2021

*Excellence in North Dakota public education through local school board governance* ■ VOL XLVI ISSUE 3

## Legislature Receives Revenue Forecast Updates



Legislators received a pair of updated revenue forecasts on Tuesday, March 16. Legislators last received forecasts in

November 2020. These revenue projections are used by lawmakers to guide the budgeting and appropriations process.

The forecast presented by Moody's Analytics and the state Office of Management and Budget expects the state to receive nearly \$4 billion in oil tax revenue during the next two-year budget cycle — a full \$1.1 billion more than a projection presented to lawmakers in November. The projection assumes 1.1 million daily barrels

of oil production at per-barrel oil prices of \$53.50 in 2022 and \$48.75 in 2023 — much higher than the \$40 estimate lawmakers have used as a baseline since January. Moody's projection also predicts a \$54 million increase over the previous forecast in General Fund revenue, which mostly comes from sales tax, income tax, and a sliver of the oil tax.

The legislature's budget consultant, IHS Markit, offered a separate forecast that predicted similar levels of General Fund revenue. The firm brought up several scenarios for oil tax revenue, including one in which the administration of President Joe Biden shuts down the Dakota

Access Pipeline. That would mean higher oil transportation costs that hurt North Dakota companies and drive down production, one analyst said. Senate Appropriations Chairman Ray Holmberg, R-Grand Forks, said lawmakers will just have to be conservative in determining spending levels to account for the added risk.

Legislative leaders will likely use the two projections as "guardrails" to come up with a "conservative" amount that lawmakers can spend and propose the figure to the appropriations committees later this week, Holmberg said.

*Forum News Service, March 16*

## NDSBA Hires Membership & Marketing Specialist

The North Dakota School Boards Association has hired Taylor Lassiter as its new membership and marketing specialist.

Prior to joining NDSBA, Taylor has held various communication-related positions with Clearwater Communications, Rise Property Brokers, and Broadway Centre Spa & Salon. She also served as the Bismarck Retail Manager for Power Plate Meals and was a member of the University of Mary Student

Government from 2018-20. Taylor will graduate with a Bachelor's degree in communication and media studies from the University of Mary next month.

Taylor will assist the association in event planning, social media management, member communications, and email marketing. Taylor will begin her position on April 19. Please join us in welcoming Taylor to the NDSBA team!



*Taylor Lassiter, NDSBA Membership and Marketing Specialist*



## NDSBA Requesting Clinic Proposals

NDSBA is now accepting proposals for 2021 NDSBA Annual Convention clinic sessions. The proposal submission form is included as an insert in the *Bulletin* and can be found at [www.ndsba.org](http://www.ndsba.org) under QUICK CLICKS.

Consider sharing unique or successful things happening in your district or suggesting a speaker or topic you would like to see.

**Submissions are due by May 17, 2021.**



# Legal Spotlight

## U.S. Supreme Court to Hear Case About Student Off-Campus, Online Speech

by Amy De Kok, NDSBA Legal Counsel

This past January, the U.S. Supreme Court agreed to hear a case entitled *Mahoney Area School District v. B.L.*, which originates out of Pennsylvania. The issue in the case is whether a public school district may discipline a student for a social media post criticizing the school that is published off campus. The school district appealed a decision issued in June by a federal court in Philadelphia that ruled in favor of a high school student who had posted a vulgar message on Snapchat after she was placed on the junior varsity cheerleading team instead of the varsity squad. Once the school became aware of the post, the student was removed from the cheerleading team.

Student online speech is becoming an increasing concern for all districts as it is one of the primary methods for bullying behavior. The current

state of the law on regulation of student speech that occurs outside of school makes it unclear when and the extent to which schools may address such conduct. For the last several decades, the standard announced by the Supreme Court in *Tinker v. Des Moines Independent Community School District* has been the law of the land and used to determine when schools may regulate student speech. In *Tinker*, the Court upheld the right of students to wear black armbands to protest the Vietnam War but allowed some ability for school administrators to regulate speech that would materially disrupt the work and discipline of the school. The high court has narrowed student speech rights in a series of cases since *Tinker*.

To date, however, the U.S. Supreme Court has not directly addressed whether schools may limit or address online, off-campus student speech. Many lower circuit courts have issued rulings in several cases each rejecting the argument that *Tinker* prohibits regulation of off-campus speech. The rulings from these courts still apply the *Tinker* standard and generally require some sort of nexus to the school environment in order for the school to be able to regulate.

In the *Mahoney* case, the student sued the school district arguing her First Amendment rights were violated when she was disciplined for her social media post. The student won at the district court level and again in front of the Third Circuit Court of Appeals. In its decision, the Third Circuit said that *Tinker* categorically did not apply to off-campus speech, and thus schools could not discipline “speech that is outside school-owned, -operated, or -supervised channels and that is not reasonably interpreted as bearing the school’s imprimatur.” This is a clear departure from other federal circuit courts

that addressed similar issues of off-campus speech and the school’s ability to regulate under the *Tinker* analysis.

The National School Boards Association, along with several other national school administrator and educator groups, filed amicus briefs in the *Mahoney* case supporting the Pennsylvania school district. These groups are urging the Court to overturn the Third Circuit’s ruling and continue to apply the *Tinker* framework as interpreted by the majority of federal circuit courts to allow schools to address student speech that adversely impacts student learning and the school environment.

The Court will likely hear arguments in the *Mahoney* case this spring with a decision possible by June, though the court sometimes puts off some cases granted in January until the next term. NDSBA will continue to update its members as further developments occur in this case. Contact our office for additional information regarding the *Mahoney* case and/or a school’s ability to regulate student speech under the First Amendment.

Be advised that the information provided in this article is for informational purposes only and is not intended for legal advice. Consult with your district legal counsel for direct legal assistance.

The *Bulletin* is the official newsletter of the North Dakota School Boards Association. It is published twelve times each year and is mailed as third class mail from New Salem, North Dakota.

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## Legislative Email Updates

Updates from the 2021 Legislative Session will be sent to NDSBA members weekly by email. If you have not been receiving emails from NDSBA, please call Julie at 800-932-8791 to ensure we have the correct email address on file.

## Public Notice – NDDPI Accountability Waiver Request

On behalf of the State of North Dakota, the North Dakota Department of Public Instruction (NDDPI) will be submitting a waiver for the 2020-2021 school year of accountability, school identification, and related reporting requirements in the Elementary and Secondary Education Act of 1965 (ESEA).

Due to the continued extraordinary circumstances created by the COVID-19 pandemic and resulting impacts on students, educators, and

schools, the U.S. Department of Education (ED) invited states on February 22, 2021, to apply for a waiver and provided a template in order to streamline the process. The NDDPI believes it would be beneficial to North Dakota schools and districts to pursue this waiver.

The ED requires states to provide all districts and interested parties in the state with notice and a reasonable opportunity to comment on this waiver.

application. We are providing this statewide notice by sending an email via the distribution lists, posting information in the Weekly Blast, including an article in the NDDPI March newsletter, and posting the waiver application on the NDDPI website for three weeks.

If you have questions or would like to comment on the Accountability Waiver, please contact Laurie Matzke at (701) 328-2284.

## NSBA Online Experience



The NSBA Annual Conference has been rebranded as the NSBA 2021 Online Experience for this year and will be held virtually April 8-10. This annual gathering is the one national event that brings together education leaders — including fellow school board members. Join us at #NSBA21 to connect with your public education colleagues.



## BoardBook Premier

BoardBook Premier is available to North Dakota school districts,

political subdivisions, and businesses. BoardBook Premier is a paperless meeting and document storage program designed by school boards and is the new standard in board agenda preparation and decision making. Visit [www.ndsba.org](http://www.ndsba.org) for more information.

## NDSBMCP Graduation and Recertification Ceremony Set for June 18

The North Dakota School Business Manager Certification Program (NDSBMCP) graduation and recertification ceremony has been set for Friday, June 18, at the North Dakota Heritage Center in Bismarck. The ceremony will begin at 2 p.m. CT with a reception to follow. Speakers this year include Superintendent Baesler, NDSBA Board President Karl Lembke, NDSBA Executive Director Alexis Baxley, and Jamestown Superintendent Rob Lech. Over fifty state business managers will be honored during this time. All are invited to attend and celebrate the students' hard work and dedication. Contact Rebecca Duben at 800-932-8791 for more information.



## Election Deadlines

North Dakota election laws are specific regarding dates and deadlines. Relevant election law is found in NDCC 15.1-09. Election deadline information and a sample calendar were included in the January *Bulletin* and are posted on NDSBA's website under RESOURCES.



## Business Manager Certification Program Accepting Applications

The North Dakota School Business Manager Certification Program (NDSBMCP) is now accepting applications for new students to begin courses later this summer. This certification program is a two-year, 61 credit professional development program geared toward new and long-serving business managers. Business managers are provided practical education and training to help them successfully perform their duties and meet statutory and regulatory responsibilities.

Courses are taught by superintendents, business managers, school district personnel, and state officials with expertise in specific areas. Course delivery is a mixture of face-to-face, virtual, and self-paced online. Instruction topics include: Introduction to School Finance, Open Meeting and Records, School Law for Business Managers, and School Elections.

The NDSBMCP application form can be accessed online at <http://ndsbmcp.org/index.php/handbooks-and-forms/>. Fifteen appli-

cants are needed to start a class so prompt registration is appreciated! Students are encouraged to submit the completed application by **July 1, 2021**. Even though courses are not scheduled until later this year, students may begin working on their affiliate credit requirements upon application approval. Prospective students can visit the NDSBMCP website at <http://ndsbmcp.org/> or contact [rebecca.duben@ndsba.org](mailto:rebecca.duben@ndsba.org) for more information on the program.

# 2021 NDSBA Annual Convention Ramkota Hotel, Bismarck

## CLINIC SESSION PROPOSAL

for presentations on Friday, October 29, 2021

**Deadline: May 17, 2021**

Use this form [also available in a fillable form at [www.ndsba.org](http://www.ndsba.org) under Quick Clicks] to suggest a possible clinic session that you think would be of interest to school board members, administrators, and business managers. All presentations must be educational in nature and not for the purpose of selling a product or service. **Presenters are required to bring their own laptop or tablet. NDSBA will have a projector in each of the meeting rooms.** Internet access may be available at the hotel. NDSBA is not able to reimburse clinic presenters for expenses.

Clinic Session (45-minute sessions)	
Title of clinic session: _____	
Description of clinic session: _____	
_____	
_____	
Suggested presenter(s): _____	
Position/Title: _____	
School District/Organization: _____	
Address: _____	City, ST Zip _____

Person submitting form:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

School District/Organization \_\_\_\_\_

Address: \_\_\_\_\_ City, ST Zip \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Return by May 17, 2021**

NDSBA, PO Box 7128, Bismarck ND 58507-7128

Phone: 1-800-932-8791; (701)255-4127

Fax (701)258-7992

Email: [alexis.baxley@ndsba.org](mailto:alexis.baxley@ndsba.org)

NDSBA reserves the right to reject presentations that are not in keeping with the educational character of the convention.



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**Oakes School District**

Contact: Dr. Paul Stremick  
Website: [www.dakotaleadershipsolutions.com](http://www.dakotaleadershipsolutions.com)  
Phone: 701-520-5963  
Email: [paul.stremick@outlook.com](mailto:paul.stremick@outlook.com)  
Deadline: March 26, 2021  
Position Begins: July 1, 2021

**Solen School District**

Contact: Justin Fryer  
Website: [www.solen.k12.nd.us](http://www.solen.k12.nd.us)  
Phone: 701-445-3331  
Email: [justin.fryer@k12.nd.us](mailto:justin.fryer@k12.nd.us)  
Deadline: April 19, 2021  
Position Begins: July 1, 2021

**Wyndmere School District**

Contact: Alexis Baxley  
Phone: 1-800-932-8791  
Email: [alexis.baxley@ndsba.org](mailto:alexis.baxley@ndsba.org)  
Application: [www.ndsba.org](http://www.ndsba.org)  
Deadline: April 21, 2021  
Position Begins: July 1, 2021



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Twitter!**

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event, policy, and other education-  
related updates.



**mark  
your calendar**

**2021 NSBA Annual Conference**

April 8-10, 2021 • Virtual

**2021 NDSBA Annual Convention**

October 28-29, 2021  
Ramkota Hotel, Bismarck

**2022 NDSBA Annual Convention**

October 27-28, 2022  
Ramkota Hotel, Bismarck