

Interim Tax Committee
May 6th, 2010

Chairman Cook and members of the Interim Tax Committee

Good Morning. My name is Steven Holen and I am the Superintendent of Schools for McKenzie County Public School District #1 located in Watford City. I am also a member of the North Dakota Association of Oil and Gas Producing Counties Executive Committee. I would like to share with you some concerns regarding school districts and changes to the gross production tax formula established during the 2007 and 2009 legislative sessions.

During the 2007 session, imputation was established for school districts receiving gross production tax revenue at 60% and then 70%; while counties were provided an additional \$1 million dollars above the cap of which school districts did not receive additional funds. In the 2009 session, although the cap was moved to \$5,350,000 and 10% beyond the cap provided to the counties and cities; the infrastructure fund was created which does not provide school districts their normal 35% share of the tax revenue. Legislation forced revenue into the Infrastructure Fund after the first \$350,000. Previously, school districts were awarded 35% of the county allotment up to the cap. Under the new system, school districts begin "sharing" the revenue with the infrastructure fund before the cap is reached. While a promise of "hold harmless" was made; it is undetermined where in law this is established and how the hold harmless clause will be enforced. It is probable some school districts will receive fewer funds compared to the previous biennium due to the changes in the formula regarding the Infrastructure Fund.

In addition, the revenue received from the infrastructure fund is currently imputed through the formula established by the Department of Public Instruction. I do not believe it was the intent of the legislature to ensure the Infrastructure Fund revenue was imputed for school districts. This revenue is based on a specific impact need and does not need to be considered under the terms of equalization. Requests for funds from the infrastructure fund are also greatly restricted by definition – bus replacement and/or repair. This restrictive language does not allow school districts to address impact areas that are not specific to simple bus replacement. I believe the counties should be able to provide revenue from this fund to school districts without the restrictive language currently in law.

School districts have not received increases in gross production tax revenue the past two sessions with work done on the tax formula; to a greater degree, school districts have gone backwards. While districts appreciate the opportunity for bus replacement offered by the Infrastructure Fund; I believe it is unfair to characterize buses as the only impacts faced by school districts and increased oil production in our areas. School district in areas hit by the influx of oil activity must also quickly react to changes in enrollment that includes special education and English Language Learner populations. These changes may require additional classroom space and certainly additional teachers and staff. While this is truly a good problem to have; it does involve additional funds and resources to accomplish. The availability of services, especially involving transportation repair as well as other essential services is greatly diminished with the influx of work and

revenue available in the oil field. School districts are now forced to compete with the oil field wages in obtaining essential personnel such as custodial workers and bus drivers. In most cases, wages have to be dramatically increased or positions are not filled. Also, with the salaries available in oil related fields; free and reduced meal percentages drop dramatically, which negatively affects federal funding through programs such as Title I and school food service.

Since the current funding formula utilized by DPI only allows spring ADM numbers to generate our foundation aide payments; districts that experience increased enrollments from one year to the next are not provided state funds to reflect the enrollment increases. The payments will remain one-year behind. This puts additional burden on the local district revenue to address immediate needs before state revenue "catches up" after the need is present and in need of action. The restrictions placed on local mill levies during the 2009 session do not allow school districts to quickly adjust local effort to meet current needs. The new cap of 110 mills and the 12% cap on increases restrict local effort to meet emerging needs.

I believe it is important to remember the in lieu nature provided with this tax that compensates for lost tax base revenue with the lack of property tax paid by the oil industry. While impacts are evident, the fact that school districts are unable to generate revenue from property tax increases that are normal with industry growth within the district boundaries should ensure school districts remain an important factor in the distribution formula. School districts deserve the opportunity to address issues during times of economic growth in western North Dakota. The fear of the imputation factor should not remove school districts from consideration regarding additional funds provided through the gross production tax formula.

In summary, another biennium of school district omission in the availability of additional funds is not acceptable for students of western North Dakota. There may be a number of ways to allow school districts opportunities within the current formula to address impact needs that go beyond the need for bus replacement. I hope the committee and legislature is willing to consider options involving a favorable treatment of school districts in the gross production formula. This would assist districts in meeting the infrastructure needs that are apparent in our areas and essential in meeting the educational needs of students in oil impacted areas.

Thank you for your time and consideration.

Sincerely,

Steve Holen
Superintendent
McKenzie County Public School District #1