

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

EDUCATION FUNDING FORMULA REVIEW COMMITTEE

Wednesday, January 8, 2020
 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, Joan Heckaman, Nicole Poolman, David S. Rust; Representatives David Monson, Marvin E. Nelson, Mark S. Owens, Mark Sanford

Members absent: None

Others present: Senator Erin Oban, Bismarck, and Representative Josh Boschee, Fargo, members of the Legislative Management

Dustin Assel, Legislative Council, Bismarck

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

It was moved by Representative Monson, seconded by Representative Owens, and carried on a voice vote that the minutes of the October 1, 2019, meeting be approved as distributed.

**ELEMENTARY AND SECONDARY EDUCATION
 STATE AID AND FUNDING FORMULA STUDY**

Chairman Schaible invited Mr. Mark Lemer, North Dakota Association of School Business Officials, and the following school district representatives to join the committee at the table:

- Dr. Mike Bitz, Superintendent, Mandan Public School District;
- Dr. Steve Holen, Superintendent, McKenzie County School District #1;
- Mr. Brandt Dick, Superintendent, Underwood School District 8;
- Mr. Daniel Ludvigson, Superintendent and Elementary Principal, Elgin/New Leipzig Public School; and
- Mr. Darin Scherr, Business and Operations Manager, Bismarck Public Schools.

At the request of Chairman Schaible, Mr. Lemer reviewed potential changes to the school size weighting factors. Mr. Lemer said prior to the implementation of the current state school aid formula, which includes property tax relief, districts were able to rely on local property tax for funding not provided through state aid. He said under the previous formula, state school aid payments were significantly lower and the formula weighting factors had less impact. He said whether weighting factors accurately reflect the cost of services was not addressed when the current formula was adopted. Under the current formula, he said, school districts' ability to levy property tax is limited and school districts are not able to rely on property tax to supplement state school aid as in the past. He said smaller school districts are less efficient and the school size weighting factor is more important. He said a substantial number of school districts continue to receive transition minimum adjustments indicating weighting factors may not accurately reflect the cost of educating certain students. He said the Department of Public Instruction (DPI) prepared an analysis of how many years it would take school districts receiving transition minimum adjustments to move to the formula. He said the department's analysis indicated, given no change in enrollment and 2 percent annual increases in the per student payment, 42 school districts could transition to the formula within 10 years. He said the remaining 36 school districts would require between 11 and 42 years to transition to the formula. He said a transition period exceeding 10 years does not seem reasonable.

Mr. Lemer said the department analyzed adjustments to the school size weighting factors for each school district which would eliminate the transition minimum adjustment and move the district to the formula. He said the analysis resulted in a wide range of school size weighting factors needed to eliminate the transition minimum adjustment in each school district, but it is not the intent to have a formula with school specific weighting factors.

Mr. Lemer said the department prepared additional analysis with a new set of school size weighting factors that could be applied to all school districts. He said after removing districts that were clearly outliers, the department was able to determine a reasonable set of school size weighting factors that would eliminate or significantly reduce the transition minimum adjustment for most school districts. He said the school size weighting factors included in the department's analysis would increase the state's cost of state school aid. Although the factors would not increase funding for districts with a transition minimum, he said, school districts on the formula would receive additional funding due to increases included in the proposed new set of school size weighting factors. He said even if the transition minimum adjustments for some districts were not eliminated, they would be reduced with a new set of school size weighting factors. He said reducing the transition minimum adjustments would mitigate some of the negative impact of their phase-out set to begin in the 2021-22 school year.

At the request of Chairman Schaible, Mr. Adam J. Tescher, Director, School Finance and Organization, Department of Public Instruction, provided information ([Appendix B](#)) regarding school size weighting factors needed to bring school districts receiving transition minimum adjustments on to the formula at the current per student rate and the number of school districts that may be brought on to the formula with annual 2 percent increases in the per student rate. Mr. Tescher said the analysis created a weighting factor to make up the transition minimum adjustment in each school district currently subject to the transition minimum. He said some districts are close to being on the formula and the weighting factor adjustment is slight. However, he said, other districts would require a significant increase in the size weighting factor to generate the same funding as the transition minimum adjustment. He said it is not appropriate to establish school specific weighting factors and even with the new weighting factors, schools could revert to receiving a transition minimum adjustment if baseline funding in dollars is maintained in the formula.

Mr. Tescher said the analysis of the length of time it would take school districts receiving transition minimum adjustments to move to the formula was done prior to the completion of the 2019-20 school district equity report and identifies 84 school districts on the formula. However, he said, enrollment declines have resulted in some districts moving off the formula to a transition minimum adjustment. He said approximately 76 school districts are on the formula for the 2019-20 school year. He said if annual per student payment rate increases are more than 2 percent, school districts will move on to the formula faster and if the per student payment rate increases are less than 2 percent, school districts will move on to the formula slower.

Chairman Schaible said current law provides for a phase-out of the transition minimum adjustment over 7 years beginning with the 2021-22 school year. He said districts taking the longest to get on the formula in the department's analysis will be the most impacted by the phase-out of the transition minimum adjustment.

Senator Rust suggested the committee receive an update of the state school aid report presented to the committee in October 2019. He said the report included the percent of funding provided by local property tax, local revenue, and state aid.

Representative Monson expressed concern that school district expenditures may be inflated because school districts must spend down ending fund balances to avoid an ending fund balance offset. He said limitations on school districts' ending fund balances encourage additional spending.

Mr. Tescher said amounts in the analysis are based on funding from the formula and may not be representative of cost. He said in some school districts the formula provides enough funding to allow districts to levy less than the 60 mills required in the formula.

Mr. Ludvigson said districts receiving additional funding are able to implement ideas or programs that would not be possible without the additional funding. He said some are able to staff positions without having to find savings, such as dual role administration and employing the minimum number of counselors.

Mr. Tescher provided an analysis ([Appendix C](#)) of a new weighting factor scale for K-12 and elementary school districts proposed by the North Dakota Council of Educational Leaders (NDCEL). He said for K-12 school districts, the smallest school district size category on the current school size weighting factor scale is an average daily membership (ADM) of fewer than 110 students, which receives a 1.36 weighting factor. He said K-12 school districts with 900 or more students have a weighting factor of 1.0 and districts between 110 students and 900 students receive the benefit of a weighting factor on a sliding scale between 1.36 and 1.0. He said the proposed school size weighting factor scale for K-12 school districts would decrease the smallest school district size category to ADM of fewer than 90 students. He said the weighting factor for this smallest category would increase from 1.36 to 1.54. He said the maximum would remain at 900 students and the incremental change in the factor for each category would be higher. For elementary school districts, he said, the smallest size category on the school size weighting factor scale is an ADM of fewer than 125 students, which receives a 1.25 weighting factor. He said elementary school districts with at least 125 students, but less than 200 students receive a 1.17 weighting

factor and elementary school districts with 200 students or more receive a factor of 1.0. He said the proposal includes increasing the weighting factors for elementary school districts from 1.25 to 1.37 and from 1.17 to 1.29. He said the school size categories do not change in the proposal.

Mr. Tescher said the first row of the analysis represents projected calculations under the current formula for the 2020-21 school year and includes partial on-time funding. He said the second row applies the proposed school size weighting factors to the first row (2020-21 school year) data. He said the third row includes the implementation of the 15 percent phase-out of transition minimum adjustments scheduled to begin in the 2021-22 school year; however, the projections used for the estimate are based on the 2020-21 school year for comparison purposes. He said the fourth row, labeled 2027-28, is based on the projections for the 2020-21 school year with all transition minimum adjustments eliminated and full on-time funding. He said the cost of the increased school size weighting factors applied to the 2020-21 school year data would be approximately \$18 million. He said the proposed school size weighting factors will not provide enough funding to offset the \$49 million of transition minimum adjustments in the formula; therefore, funding would decrease for some districts.

Chairman Schaible said the department's school size weighting factor analysis is for discussion purposes only and is not being proposed at this time.

In response to a question from Chairman Schaible, Mr. Tescher said changes in the school size weighting factor will help school districts impacted by the phase-out of transition minimum adjustments. However, he said, school districts with declining enrollments still will experience funding reductions.

Dr. Bitz said some of the cost of the increased school size weighting factors will be supported by savings resulting from school districts being transitioned to the 60-mill deduction in the formula.

Mr. Lemer said the formula seems to work well for large districts; however, the state will have to determine whether funding available to various smaller school districts years from now, when transition minimum adjustments are eliminated and districts are deducting 60 mills in the formula, will be adequate to support their operations. He said if the funding will not be sufficient, the underlying reasons for those districts' additional cost must be addressed now to ensure that when all school districts are on the formula, they have the funding needed to support their operations.

At the request of Chairman Schaible, Mr. Dick presented information ([Appendix D](#)) regarding viable school districts and small, but necessary isolated school districts. Mr. Dick said consideration must be given to how few students is too few for a viable school district and how far is too far for students to travel to attend school. He said local districts should decide when to consolidate; however, very small school districts are less efficient and require an increased per student payment and additional state funding. He said the finance subgroup of the NDCEL legislative focus group based its work on an average of 7 students per grade in K-12 or 91 students and a prorated 60 students for elementary school districts. He said the state has two definitions for isolated school districts. He said school districts with a land mass greater than 275 square miles and less than 100 student ADM receive an additional weighting factor of .1 for each student. He said school districts with a land mass greater than 600 square miles and less than 50 student ADM receive an additional weighting factor of 1.10.

Mr. Dick said the National Center for Education Statistics defines remote rural as rural territory more than 25 miles from an urbanized area. He said using this definition, the finance group suggested if a school district is more than 25 miles, by road, from a neighboring school district building, that district is an isolated but necessary school district and should be protected. He said the finance group also considered the idea that if school districts meet the definition of isolated but necessary, but have enrollments of fewer than 90 students for K-12 districts or 60 students for elementary districts, the districts would be paid for a minimum of 90 or 60 students regardless of enrollment. He said if isolated but necessary school districts' enrollments exceed 90 or 60 students, payments would be based on actual enrollment.

Chairman Schaible said South Dakota has a tiered system that provides block grants to school districts of a certain size. He said school districts considered nonviable are not funded by the state unless considered isolated and necessary. He said North Dakota will have to determine the definition of necessary and isolated and how K-6 and K-8 schools will fit into the funding model.

In response to a question from Senator Heckaman, Mr. Dick said NDCEL is in the process of identifying isolated but necessary schools based on the 25-mile criteria.

Mr. Lemer said the goal is to determine isolated but necessary schools that, due to geography or other reasons, must be maintained. He suggested these schools be defined, identified, and supported.

Mr. Ludvigson said because his district is sparsely populated, transportation costs are considerably more than a district of the same number of students with a smaller land area. He said more bus routes are needed to avoid long bus rides.

Dr. Holen said his district covers 1,679 square miles and must navigate a time zone change. He said students regularly ride a bus for 1 to 1.5 hours. He said to keep students from riding the bus too long, transportation in his district is inefficient and expensive. He said his district is reimbursed for approximately 25 to 30 percent of its transportation costs.

Mr. Tescher said there are 16 districts that qualify for the .1 weighting factor for districts greater than 275 square miles with less than 100 students and no districts with over 600 square miles and less than 50 students. He provided several examples of districts that have fewer than 90 students and are over 25 miles from the next school.

Ms. Sara Bilden, Superintendent, Midkota Public School and Kensal Public School, said Kensal Public School is one of three schools affected by baseline adjustments for school districts transitioning, as a result of a cooperative agreement, from a K-12 to a K-8 or K-6. She said a 2019 formula change requires a reduction in baseline funding, beginning in the 2020-21 school year, when a school transitions from a K-12 to a K-8 or K-6. She said her district was unaware of the change and its impact on funding until December 2019. She said the district has had a low mill levy for years and is working to increase assessments. However, she said, the 12 percent limit on property tax increases does not allow the school district to raise enough property tax revenue to replace the approximate \$300,000 reduction in funding. She said the school district must decide whether to spend reserves and hope for additional funding next legislative session or dissolve the cooperative agreement. She said Kensal Elementary School is 26 miles from the nearest elementary school.

Ms. Tammy Simnioniw, Business Manager, Billings County School District, said her district would not meet the definition of an isolated school based on the 25-mile threshold; however, due to travel conditions and roads, students in the PK-8 schools in the district travel 1 or more hours. She said requiring students to go to another elementary school would add 15 to 30 minutes of travel time. She said high school students go to one of four different high schools.

Dr. Brad Callender, Superintendent, Hope-Page Public Schools, said after 20 years of operating under a cooperative agreement, his school district was recently consolidated. He said he was concerned that an adequate level of funding has not been defined. He said adequate varies from school to school. He said in addition to weighting factors for size and sparsity, the committee should consider weighting factors for relative wealth or income. He said a district could have a great deal of taxable valuation, but still have poverty. He said while local control is important, small and geographically close districts should be encouraged to consolidate or reorganize when it makes sense.

Chairman Schaible said the committee may want to consider cooperative agreements. He said if cooperative agreements are allowed, the agreements should lead to consolidation or reorganization.

Ms. Carolyn Eide, Superintendent, Tioga Public School District, said the phase-out of transition minimum adjustments will reduce funding for her district by over \$1.1 million. She said the impact may be mitigated somewhat by allowing districts to maintain larger ending fund balances without penalty.

Chairman Schaible said the original intent of the ending fund balance limitation was to prevent districts from taxing for more funding than needed. He said because taxing authority is now limited and school districts receive other funding they do not control, the ending fund balance limitation should be reviewed.

At the request of Chairman Schaible, Mr. Tescher provided information ([Appendix E](#)) regarding an overview of transition maximum formula adjustments and the ending fund balance limitation under North Dakota Century Code Section 15.1-27-35.3. Mr. Tescher said transition maximum adjustments were determined by baseline funding when the formula was developed in 2013 and there is no phase-out of transition maximum adjustments in statute. He said during the first 4 years of the formula, transition maximum adjustments were increased by 10 percent per year, but no increase was provided during the 2017-19 biennium. He said transition maximum districts will receive 5 percent annual increases during the current biennium. He said 11 districts, mostly on Native American land, are subject to transition maximum deductions totaling \$10.5 million.

Mr. Tescher said the first row of the analysis is the 2020-21 school year estimate, including the approved 5 percent increase in the transition maximum adjustment. He said the second row provides details of the cost, \$2 million per year, to provide a 10 percent increase in the transition maximum adjustment in the 2019-21 biennium. He said the third row provides details of the transition maximum adjustment for the 2020-21 school year if annual

10 percent increases would have been maintained during the 2017-19 biennium. He said the fourth row provides an estimate of the transition maximum adjustments, \$5 million per year, 7 years from now under current law, assuming 2020-21 enrollment and property valuations, 5 percent annual increases in transition maximum adjustments, and annual 2 percent per student rate increases.

Mr. Tescher said 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. He said state school aid is reduced by the amount by which a school district's ending fund balance exceeds the limit. He said school districts in a cooperative agreement may keep an additional \$50,000 in ending fund balance without penalty. He said the ending fund balance limitation is a challenge for transition maximum districts because the districts have little property tax revenue and funding is dependent on federal revenue, the timing of which can be inconsistent. He said in 2019, the Legislative Assembly directed DPI, the Indian Affairs Commission, and the Kindergarten Through Grade Twelve Education Coordination Council to study the effect of impact aid on the funding formula for reservation schools.

Senator Rust said wind farm funding causes similar ending fund balance limitation concerns.

Mr. Nathan Davis, Council Representative, Turtle Mountain Band of Chippewa Tribal Council, provided information ([Appendix F](#)) regarding transition maximum adjustments. He suggested the committee consider legislation to bring school districts limited by transition maximum adjustments on to the formula over a reasonable time period. He said relative to total state school aid, the cost is not significant. He said in 2019, the Legislative Assembly approved eliminating transition minimum adjustments over time and he hopes school districts subject to transition maximum adjustments also are transitioned to the formula.

Mr. Duane Poitra, Business Manager, Belcourt School District, provided information ([Appendix G](#)) regarding the impact of transition maximum adjustments on the Belcourt School District since 2013. He said during the 2019-20 school year, more than one-half of total statewide transition maximum adjustments, or \$5.6 million, was deducted from the formula payment calculation for the Belcourt School District. He suggested the committee review ways to bring transition maximum school districts on to the formula. He provided an analysis of transition maximum deduction projections for the Belcourt School District based on 5 percent annual increases in the new baseline.

Chairman Schaible said the committee will receive information from the impact aid study and plans to review transition maximum adjustments later in the interim.

In response to a question from Senator Rust, Mr. Poitra said Native American schools receive federal funding not included in the formula. He said each tribal school operates differently. He said in the Belcourt School District, tribal schools operate cooperatively with the public school for elementary and middle school and primarily depend upon state funding for those schools. He said federal funding is available for the high school. He said there are different challenges in educating students on Native American lands and the cost per student is above the statewide average. He said impact aid may be significant for some tribal schools; however, the Belcourt School District's impact aid is approximately \$300,000.

Chairman Schaible said impact aid should not be considered in the funding formula.

Representative Nelson said when the funding formula was developed in 2013, property tax relief was included in the baseline funding for school districts. He said reservation school districts were receiving little benefit from tax relief at that time, resulting in lower baseline funding and the transition maximum deduction.

At the request of Chairman Schaible, Mr. Tescher provided information regarding student placement, including the fiscal impact of student placement on state school aid. Mr. Tescher said if a student is placed into a residential facility, where a public school education is available, foundation aid follows the student. He said if education at the facility is provided by a private school, foundation aid is directed to the school district financially responsible. He said there is ambiguity in some of the laws relating to student placement subjecting policy to DPI interpretation. He said challenges include financial responsibility, allowable placements, definition of custodial parent, legal guardian transfer, and the impact of the recent school calendar change from days to hours. He said education provided during incarceration does not qualify for foundation aid over the summer. In addition, he said, there is confusion regarding whether school districts are responsible for students who drop out of school, but are later incarcerated or placed in a residential facility. He said there also are questions regarding whether the placement of a student who has dropped out of school is reimbursable from the department's special education contracts line item. He said GED programs are not funded through the state school aid formula. However, he said, there is a question regarding whether there should be a reimbursement through the state school aid formula or the special education contract system for students placed into a residential facility where they enter a GED program. He said the transition of some school districts from days to hours has created issues relating to daily cost caps. He said districts converting

to hours may have a higher per day cost which complicates billing when the placement is less than 1 school year. He said costs related to the special education contract system have steadily increased during the last 2 bienniums, causing the department to request additional appropriation authority in 2017 and 2019. He said the department will be unable to determine the adequacy of the 2019-21 appropriation until June 2020 when contracts for the 1st year of the biennium are submitted.

Dr. Bitz provided information ([Appendix H](#)) regarding K-12 tuition calculations, open enrollment, tuition agreements, agency-placed students, graded elementary and rural districts, and air base tuition. He reviewed a worksheet for calculating tuition provided by DPI. He said state foundation aid per student is deducted from the district's average cost per student for kindergarten, grades 1-6, grades 7-8, and grades 9-12 to determine the unadjusted tuition charge per student in each grade section. He said the tuition charge per student is the lesser of the unadjusted tuition charge per student or 150 percent of the state average cost of education. He said districts accepting open enrollment students receive the per student payments for those students. However, he said, special education is the responsibility of the district of residence and receiving districts are able to bill the district of residence for the cost of special education services. He said tuition is paid when the receiving district does not participate in open enrollment or the open enrollment deadline is missed. He said tuition is paid by the sending district or the parent, but can be waived if the receiving district receives the per student payment. When an agency places the student outside of the district, he said, the district of residence is responsible for all regular and special education costs of the student. He said districts that do not offer grades 9-12, except Williams County School District #8, pay tuition for their high school students based on the DPI worksheet. He said in 2019 the Legislative Assembly provided Williams County School District #8 pay the greater of the tuition worksheet calculation or \$4,000 per student. In addition, he said, none of the tuition revenue received by Williston School District #1 is deducted to determine its state school aid.

Dr. Bitz said because the Minot and Grand Forks Air Force Bases are nonoperating school districts, they contract with local school districts to provide education services in return for federal impact aid related to their children. He said children living on an Air Force base are considered North Dakota residents and the educating school district receives the per student payment for each student. In addition, he said, Air Force base impact aid is treated like tuition and while 75 percent is deducted in the state school aid formula, the educating school district is allowed to keep the remaining 25 percent.

Dr. Bitz reviewed the maximum amount of local school district financial responsibility for special education students placed by the school district (limited to four times the state average cost) and for students placed for reasons other than education (based on the state average cost), including cost caps by grade range for the 2018-19 and 2019-20 school years and the 2019-20 daily rate, based on a 182-day calendar.

In response to a question from Senator Schaible, Dr. Bitz said the process of billing and paying tuition to other school districts, which is deducted at 75 percent in the formula, may be simplified. He said rather than paying tuition, a school district could receive the per student payment for all the students the district accepts and take responsibility for the cost, subject to the special education maximums that provide state reimbursement for high-cost students.

At the request of Chairman Schaible, Dr. Shon Hocker, Superintendent, Dickinson Public School District, provided information regarding the Wyoming model for students educated outside their resident district. Dr. Hocker said in North Dakota, school district personnel spend hours reconciling contracts with other school districts. He said if a student has been attending another school through open enrollment and the receiving school district determines special education services are needed, the resident district is required to pay for the services even though that district may not have worked with the student in months. He said funding follows the student in Wyoming and instead of billing the resident district, the receiving district is responsible for all costs.

In response to a question from Chairman Schaible, Dr. Hocker said the department has a system in place to forward the per student payment for a student to the receiving school district through open enrollment. He said it becomes complicated when the receiving district bills the district of residence for special education services. He said only a few open enrollment students are likely to need additional services, and he suggested receiving school districts agree to absorb those special education costs, subject to the protections the state provides for high-cost students, as part of the opportunity to participate in open enrollment.

Mr. Lemer said when open enrollment was first enacted, the presumption was the receiving district would receive the per student payment for the student and, except for special education costs, would not bill the district of residence. He said receiving school districts bill for the actual cost of special education services; however, the state school aid formula adopted in 2013 requires 75 percent of the tuition revenue be deducted in the formula. He said there also are overhead costs related to managing the contracts, but districts are allowed to keep only 25 percent of

the tuition they receive. He said rather than the tuition deduction in the formula and the additional resources dedicated to billing, receiving districts could agree to fully fund the cost of the student whether it is regular education or special education. The receiving school district would agree to accept the per student payment which would follow the student. He said an analysis has not been done regarding the impact on funding for each school district. He said there may be outliers, but for most districts, the change likely would be revenue neutral.

In response to a question from Chairman Schaible, Dr. Bitz said graded elementary and rural districts that do not offer a high school still would pay tuition. He said if tuition between schools is eliminated for open enrolled students, the loss of the offset for tuition in the formula would be a cost to the state.

In response to a question from Chairman Schaible, Mr. Tescher said determining financial responsibility is a challenge when the custodian and the legal guardian or parents live in different districts.

Mr. Lemer said a court ruling provides the district where a student lives is financially responsible even if the student is not living with a custodian, legal guardian, or parent. He said the process of determining financial responsibility would benefit from one definition of district of residence. He suggested the committee consider whether GED programs and summer programs at residential facilities should be eligible for state school aid payments from the state.

Mr. David Wegner, Superintendent, Beach School District, said his district provides services at two graded elementary districts and a residential facility. He said the Beach School District receives few open enrolled students and it would be expensive to absorb special education services without reimbursement. He said his district does not make a profit on student placement services. He said the district is on a 2-year cycle where 2nd-year billings are adjusted for the gains or losses of the 1st year. He said the district maintains separate rates for regular education and special education. He said the district bills the same rate for graded elementary students and placement students. He said daily rates will be impacted if the Beach School District decides to transition to a 4-day week.

Dr. Bitz said if tuition is eliminated for open enrolled students, the district of residence still would be responsible for the special education costs of students from graded elementary districts and agency-placed students at a residential facility.

At the request of Chairman Schaible, Ms. Linda Lies, State Supervisor of Assessments, Director, State Property Division, Tax Department, provided information ([Appendix I](#)) regarding trends in property values and property taxes. Ms. Lies reviewed sample property tax statements for taxable years 2009, 2014, and 2019 for Grand Forks County, Logan County, and Williams County to provide a comparison of taxable valuation, mill levy rates, and property tax. She said while assessments increased over the 10-year period for both residential and agricultural parcels, the consolidated mill rate decreased. She provided a comparison of various school district mill levies in 2009 and 2019 for Grand Forks School, Logan County School District, and Williston Public School District #1. She said because school district levies have been discontinued and added over the years, it is difficult to compare years. She said assessments may have changed because of an increase or decrease in market values or due to additions to structures or removal of structures from the original parcel. She said total mills changed due to consolidation of levies after the 2015 legislative session, the state's assumption of the human services levy, and new levies including the miscellaneous fund and school safety plan fund. She provided a history of assessments statewide by taxing district from 2009 through 2018, included in the Tax Department's most recent publication of the *Property Tax Statistical Report*, and demonstrated how to search tax levies on the department's website. She said information on the Tax Department's website is available beginning with taxable year 2015.

In response to a question from Mr. Lemer, Ms. Lies said counties have been collecting data on new property, and the Tax Department could build the necessary changes into the maximum mill levy worksheet to apply the 12 percent increase limitation only to existing property.

In response to a question from Dr. Holen, Ms. Lies said currently new property additions would have to be substantial for the tax increase related to the new property to exceed the 12 percent increase limitation.

In response to a question from Dr. Holen, Ms. Lies said when taxable valuation decreases, the mill rate is increased to achieve base year funding; however, if property is removed, base year taxes are reduced.

Mr. Lemer said when the state school aid formula was implemented, the intent was for school districts to contribute 60 mills to the formula; however, taxpayer protection provisions limit property tax increases to 12 percent. He said the limit on annual property tax increases has resulted in the mill levy rate to decrease to below 60 mills in some school districts. He said for those districts to levy the 60 mills intended, the 12 percent limitation may have to be eliminated.

At the request of Chairman Schaible, Mr. Tescher provided information ([Appendix J](#)) regarding the 60-mill local property tax contribution included in the state school aid formula and the fiscal impact of changes to the 60-mill contribution for districts with a deduction below 60 mills. Mr. Tescher said in 2019 the Legislative Assembly approved a provision to phase in the 60-mill deduction for all districts starting in the 2020-21 school year. He said the property tax deduction for districts deducting less than 60 mills will be increased by 10 percent of the difference in the first 2 years of the phase-in period and 20 percent of the difference in each of the remaining 4 years of the phase-in period. He said the analysis includes districts deducting less than 60 mills during the 2019-20 school year and includes the estimated property tax deduction each year of the phase-in period. He said the analysis does not include adjustments for enrollment or property valuation changes over the 6-year phase-in period. He said, based on 2019-20 property valuations, the cumulative increase in the deduction for all districts currently deducting less than 60 mills would be a savings to the state of an estimated \$22.5 million. He said the difference between current deductions for local property tax and deductions at 60 mills could be higher as property values increase in future years resulting in additional savings to the state. He said the volatility of property values will make it difficult to budget for the 60-mill local property tax deduction in the formula. He said this could result in budget shortfalls or turnback in the state school aid line item of the department's budget. He said if school districts are allowed to exclude new property when determining the 12 percent limit on property tax increases, the same exclusion will need to be provided when calculating the local property tax deduction in the state school aid formula.

In response to a question from Chairman Schaible, Mr. Tescher said for school districts with a low taxable valuation per student, DPI establishes a minimum taxable valuation by multiplying 20 percent of the statewide average taxable valuation per student by the number of weighted student units in the district. He said DPI applies 60 mills to the minimum taxable valuation to determine the state school aid formula deduction. He said the 12 percent limit on increases in the deduction also applies when the taxable valuation is imputed.

Dr. Holen said bringing growing districts in the western part of the state to a 60-mill levy deduction in the formula will shift funding from the state to local property taxpayers and will make it more difficult for those growing districts to levy additional property tax for construction.

Mr. Lemer said the department's analysis did not include changes to taxable valuation. He said the list of school districts levying and deducting less than 60 mills may change each year based on increases and decreases in property values.

Mr. Lemer said if the local property tax contribution in the formula is reduced to 50 mills or lower, the change would provide additional property tax relief and school districts levying and deducting below the formula deduction would be less impacted as they transition to the formula.

ELEMENTARY AND SECONDARY EDUCATION TRANSPORTATION STUDY

At the request of Chairman Schaible, Mr. Dustin Assel, Counsel, Legislative Council, reviewed a bill draft [[21.0033.01000](#)] relating to reimbursement for elementary and secondary education transportation costs. Mr. Assel said the bill draft codifies student transportation aid payment sections as the provisions existed on June 30, 2001, updates provisions to reflect current practices and reimbursement rates included in Section 10 of Senate Bill 2013 (2019), and prohibits school districts from receiving transportation reimbursement for certain students participating in open enrollment. He said the Legislative Assembly, in House Bill No. 1045 (2001), completed a rewrite of K-12 education provisions and moved the rewritten provisions, including the transportation aid payment sections, from Title 15 to Title 15.1. He said because the 2001 bill did not contain an emergency clause, transportation reimbursement sections as of June 30, 2001, were the same as what existed following the 1999 legislative session. He said in 1999, transportation reimbursement sections were included in Chapters 15-34.2 and 15-40.1 related to student transportation aid and state school aid. He said in 2003, the Legislative Assembly repealed the rewritten sections related to transportation aid included in Chapter 15.1-27. Except for language included in the department's appropriation bill each biennium, he said, there are no references to student transportation aid payments. He said Section 1 of the bill draft provides for the reimbursement of mileage and ridership for both rural and city routes and family transportation. He said Sections 2 and 3 of the bill draft relate to reimbursement for special education and career and technical education transportation. He said Sections 4 through 6 of the bill draft relate to certification of information and distribution of payments. He said Section 7 of the bill draft amends Section 15.1-31-05 related to open enrollment transportation to prohibit school districts from receiving transportation reimbursement for students participating in open enrollment unless the school district of residence does not provide educational services for the student's required grade level.

Mr. Lemer suggested Section 7 of the bill draft relating to open enrollment transportation be reconciled with language in Section 15.1-31-01 related to open enrollment procedure.

Mr. ElRoy Burkle, Executive Director, North Dakota Small Organized Schools, said Section 4 of the bill draft requires certification of information to the county superintendent of schools. He said with the implementation of the state automated reporting system (STARS), school districts no longer may be submitting information through the county superintendent. He suggested the committee review the information required in Section 4 to determine which items are necessary. He said if reimbursement for ridership is maintained, North Dakota Small Organized Schools does not oppose the reimbursement restriction for mileage related to open enrollment students. He said the reimbursement for ridership would be the same regardless of which school the student attends. He suggested the bill draft also address transportation related to tuition and tuition waivers.

Mr. Tescher suggested subsection 3 of Section 2 of the bill draft, restricting payment to no more than one per student payment, may need clarification. He said in prior bienniums, transportation funding was distributed based on miles and rides, but any appropriation remaining also was distributed to school districts on a pro rata basis. He said estimating mileage and ridership has made budgeting difficult. He said because the department does not collect information regarding open enrollment transportation, it is not possible to estimate savings related to changes in reimbursement for open enrollment transportation.

OTHER COMMITTEE RESPONSIBILITIES

At the request of Chairman Schaible, Mr. Tescher reviewed a compilation of annual school district employee compensation reports ([Appendix K](#)). Mr. Tescher said the *2018-19 Employee Compensation Report* includes data electronically submitted through STARS for school years ending in June of 2017, 2018, and 2019. He said pursuant to Section 15.1-02-13, school districts are required to submit employee compensation information before September 11 of each year. He said the department collects compensation information for all school districts; however, for comparison purposes the report only includes full-time licensed school district employees who have worked more than 172 days. He said although the department collects the information, districts that have transitioned to 4-day weeks are not included in the report. He said as more districts transition from days to hours, the department will evaluate how the data for those districts can be reported.

Mr. Tescher said the average base salary for administrators increased from \$96,372 to \$99,337, or 3.07 percent, from 2017 to 2019. He said the average base salary for teachers increased 1.68 percent, from \$53,261 to \$54,154, over the same period. He said the number of administrators statewide increased from 625 in 2017 to 643 in 2019, while the number of teachers increased from 8,936 to 9,176 during the same period. He said administrators include principals, superintendents, directors, assistant principals, assistant or deputy superintendents, and assistant directors. He said teachers include coordinators, library media specialists, pupil personnel, school counselors, school psychologists, speech and language pathologists, supervisors, instructional programmers, special education consultants, and tutors in training. He said the report also includes information regarding base salary and compensation by school district for administrators and teachers and 1- and 2-year comparisons of the average base teacher salary and average total compensation by district.

In response to a question from Senator Rust, Mr. Tescher said he receives a few requests for the report each year.

In response to a question from Representative Boschee, Chairman Schaible said the compensation report is one of many reports being reviewed for relevance.

In response to a question from Dr. Holen, Mr. Tescher said other ancillary staff salaries also are collected and available in a database; however, the information may not be as complete.

In response to a question from Representative Sanford, Mr. Tescher said national education data is adjusted to be comparable, but the data is outdated when published and not representative of current statistics.

Senator Oban said even if the report is eliminated, the data should still be collected.

Mr. Lemer said the data in the compensation report is high level and the averages may be driven by multiple variables making the data less useful to school districts and teachers.

In response to a question from Representative Monson, Mr. Tescher said in addition to the ending fund balance limitation in Chapter 15.1-27 related to state aid, Chapter 15.1-07 related to school districts provides the amount carried over by a school district in the ending fund balance may not exceed 45 percent of the current annual budget for all purposes other than debt retirement and amounts financed from bond sources plus \$20,000. He said there is no consequence for exceeding the threshold in Chapter 15.1-07.

Chairman Schaible said the conflict in ending fund balance limits is among items being reviewed.

No further business appearing, Chairman Schaible adjourned the meeting at 3:51 p.m.

Sheila M. Sandness
Senior Fiscal Analyst

ATTACH:11