

A Resolution of the BEP Review Committee

By Dr. Cliff Lippard

Whereas, the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) Model governing a portion of the fiscal capacity distribution within the Basic Education Plan (BEP) funding formula dates from the inception of the BEP, and;

Whereas, the estimated value of property subject to payment-in-lieu-of-tax (PILOT) agreements, also called tax equivalency payments (TEPs), is included in the Equalized Property Assessment Per Student variable used in the TACIR Model governing 50% of the fiscal capacity distribution, and;

Whereas, TEPs data was produced by the Comptroller's Division of Local Finance as part of its County and Municipal Finances report, which was discontinued in 1995 leaving this portion of the formula based on 1993-95 figures, and;

Whereas, in 2005 TACIR staff recommended that the BEP Review Committee remove outdated TEP data from the property tax calculation used in the TACIR model, however the committee having no clear authority to direct TACIR to change its model this was not done, and;

Whereas, The Comptroller started collecting industrial development boards (IDB) assessment data in 2007 which tells us the assessed value of IDB-owned property, which can be used to determine, given a property tax rate, the tax revenue that could potentially be generated if these properties were sold to entities that are required to pay property taxes, and;

Whereas, this IDB data is used by the University of Tennessee Center for Business and Economic Research (UT-CBER) Model for the other half of the fiscal capacity calculation, and;

Whereas, the issue was raised again as part of the discussions during Governor Haslam's 2014 Task Force on Education Funding, with TACIR staff recommending that more current PILOT data be substituted for the outdated tax-equivalency-payment data, and;

Whereas; the 2018 TACIR report entitled "*Encouraging More Cooperation and Accountability in Payment in Lieu of Tax Agreements*" recommended updating its fiscal capacity calculation to include the new IDB assessment data, rather than continuing to use the 1993-1995 TEP data, and;

Whereas, in 2020 Tennessee Attorney General and Reporter Herbert Slatery opined in opinion 20-01 that changes to the data sources in the TACIR fiscal-capacity model used to equalize funding through the Basic Education Program funding formula may be made only by the State Board of Education, and only if approved by the Commissioners of Finance and Administration and Education rather than the BEP Review Committee, and;

Whereas, the estimated effects of this update, as of June 18th, 2020 show the average of absolute change in percent of total fiscal capacity across counties from this substitution would be 1.7893% resulting in some districts gaining and others losing funds, and;

Whereas the BEP Review Committee acknowledges that any such change would ideally be phased-in over several years, but still would not advocate for a major shift in the fiscal capacity calculation that

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would create an untenable hold harmless provision, especially during this time of fiscal uncertainty, nor would it place the State Board of Education, or the Commissioners in that position, now;

THEREFORE BE IT RESOLVED BY THE BASIC EDUCATION REVIEW COMMITTEE that the State Board of Education, with the concurrence of the Commissioner of Finance and Administration, and the Commissioner of Education should seek to order this change only in a year when the executive budget has been funded, and constructed in a way that holds all districts which would lose funds as a result of this update harmless of the fiscal effects thereof, and that in the absence of those budgetary provisions the Board is requested not to seek to make this change.

BE IT FURTHER RESOLVED that an appropriate copy of this resolution be transmitted to each member of the State Board of Education and the Commissioners of Finance and Administration and Education with this final clause removed.