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**Effects of Sharing of Resources  
among School Systems  
in Counties with More than  
One School System**



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**Effects of Sharing of Resources among School Systems in Counties  
with More than One School System**

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State of Tennessee

Tennessee Advisory Commission on Intergovernmental Relations

226 Anne Dallas Dudley Boulevard, Suite 508

Nashville, Tennessee 37243



December 17, 2020

The Honorable Randy McNally  
Lt. Governor and Speaker of the Senate

The Honorable Cameron Sexton  
Speaker of the House of Representatives

Members of the General Assembly  
State Capitol  
Nashville, TN 37243

Ladies and Gentlemen:

Transmitted herewith is the Commission's report on the effects of sharing of resources among school systems in counties with more than one school system, prepared in response to Senate Joint Resolution 593 (110th General Assembly) by Senator Haile, introduced in 2018. In response, the report includes several recommendations for improving spending and taxpayer equity. Senate Joint Resolution 593 further noted that "the creation of new school districts has in the past created conflict regarding the ownership of existing school buildings and facilities." In response, this report also considers options for the transfer of school property to new city school systems. This report, in addition to the Commission's series of reports on local government revenue and services, forms a foundation for further work by a task force of stakeholders to develop specific legislative proposals for consideration by the Governor and the General Assembly. To be successful, the task force must include representatives of those affected by the changes and those with responsibility for adopting and implementing them. The Commission approved the report on December 17, 2020, and it is hereby submitted for your consideration.

Respectfully yours,

  
\_\_\_\_\_  
Representative Mike Carter  
Chairman

  
\_\_\_\_\_  
Cliff Lippard  
Executive Director

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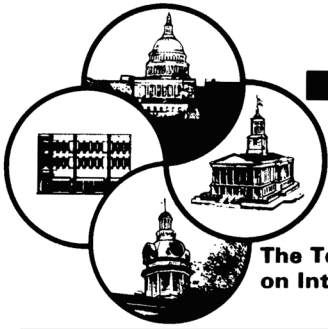
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## **MEMORANDUM**

**TO:** Commission Members

**FROM:** Cliff Lippard *Cliff*  
Executive Director

**DATE:** 17 December 2020

**SUBJECT:** Senate Joint Resolution 593 (Multi-School System Counties)–Final Report  
for Approval

---

The attached Commission report is submitted for your approval. It was prepared in response to Senate Joint Resolution 593 (110<sup>th</sup> General Assembly), sponsored by Senator Haile, which directs the Commission to study the overall effect on public K-12 education in Tennessee of the laws and regulations related to the sharing of resources among and operation of multiple school systems located in the same county. Senate Joint Resolution 593 further notes that “the creation of new school districts has in the past created conflict regarding the ownership of existing school buildings and facilities.” In response, this report also considers options for the transfer of school property to new city school systems.

Since the draft report was presented at the September 2019 meeting, staff has added maps and tables showing school systems by county, the number and type of school systems by county, and grades served by school system; information about a proposed new school building in Jonesborough; additional information on Tennessee statutes and case law pertaining to building transfer issues; and, in response to concerns raised by local government representatives, clarifying language regarding student and taxpayer inequities and a call for further study by a task force of stakeholders to develop a set of specific legislative proposals for consideration by the Governor and the General Assembly. Staff also made revisions clarifying and updating information regarding the mixed drink tax. Previous versions of the draft report included a recommendation to remove the expiration in state law on provisions that determined the distribution of mixed drink tax revenue in counties with more than one school system. When the law



was amended in 2014 to reflect the current distribution formula, it included an expiration date since there was ongoing litigation surrounding the previous distribution statute. The 111<sup>th</sup> General Assembly removed this expiration, so the mixed drink tax recommendation was likewise removed from the report. Following an October 2020 meeting of the local government working group, staff added language reiterating the need for a comprehensive review of the Basic Education Program funding formula. These changes are highlighted in yellow in the report, and other than the mixed drink tax recommendation, the suggested alternatives remain unchanged from the draft report.

In counties with multiple school systems, whether local revenue must be shared among all systems in the county varies under state law depending on its source, what the revenue is allocated for, and whether it is earmarked for specific purposes. In particular, revenue from state and local sources that counties allocate for schools' operation and maintenance must be shared with all school systems in the county. For revenue spent on capital expenditures, state law requires multisystem counties to share proceeds from countywide school bonds with all systems in the county, but counties are not required to share revenue for capital expenditures from sources other than countywide bonds. For cities and special school districts, in contrast, there are no sharing requirements.

According to some representatives of counties, disparities that result from the state's current education revenue sharing requirements raise equity concerns. City officials raise similar concerns about achieving equity for students and taxpayers and face their own challenges because of the complexity of Tennessee's local tax and governance structures and school finance system. State courts, including Tennessee's highest court, have taken the position that equity for students necessitates neither equal funding nor sameness, but rather equal opportunity. Equality of opportunity has been a longstanding issue in education.

Another longstanding point of discussion in education finance is that of taxpayer equity. The challenge is devising a way to ensure that taxpayers derive similar benefit from the taxes they pay regardless of whether they live in or receive services from the taxing jurisdiction. Consequently, Tennessee has several examples of taxpayer inequities, some of which favor cities and some of which favor counties.

A county's ability to use countywide revenue in lieu of bonds to fund education capital expenditures without sharing this revenue is one example that improves student equity at the expense of taxpayer equity. This is arguably unfair to taxpayers living in city school systems or special school districts, but it's one of only a few ways counties can address student equity under current law. **Because countywide property taxes and**

countywide local option sales taxes apply to property and sales within cities and special school districts, the General Assembly could require counties to share this revenue when they use it for education capital expenditures as is required when they use it for education operations and maintenance. But if the state does so, it should consider adopting other alternatives that would improve student equity in counties with multiple school systems while adhering to principles of taxpayer equity. Any such change should be prospective only so as not to create problems with revenues committed to repayment of existing debt or with state or federal maintenance of effort requirements.

One alternative that could improve both student and taxpayer equity is to remove the requirement that counties share their portion of the unearmarked half of local option sales tax when it is budgeted for education operations and maintenance. This revenue is distributed based on where the sale was made, and therefore none of it is generated within cities. Again, any such change should be prospective only so as not to create problems with revenues committed by cities to debt repayment or maintenance of effort requirements. **Another alternative that would decrease disparities for students as well as taxpayers would be to transition from calculating fiscal capacity at the county level to calculating it at the system level** when equalizing funding through the Basic Education Program funding formula. A system level model would take into account intra-county disparities, such as counties' relative lack of access to unshared tax bases and the concentration of commercial and industrial tax bases within cities, which leaves counties with less ability to raise local revenue for county school systems when compared with city school systems and special school districts in the same county.

While forming new special school districts has been prohibited since 1982, state law allows the creation of new city school systems. But state law does not require counties to transfer school property to new school systems, and there is no process in Tennessee law for determining the disposition of school property following the creation of a new city school system. In the 110<sup>th</sup> General Assembly, Senate Bill 1755 by Senator Gardenhire, House Bill 1757 by Representative Harry Brooks, as amended, would have created "a process for determining the amount that a city must pay to fairly compensate the county for the school property the city seeks to obtain" but did not pass.

While the law in Tennessee does not speak to the transfer of real or personal property when an existing city forms a new school system, current annexation statutes and those for disbanding school systems, the agreements reached in the creation of city school systems in Shelby County, as well as laws in other states may provide guidance for establishing requirements and method. Options range from imposing specific obligations to requiring a local committee to create a plan for the transfer by agreement.

For example, current statutes authorize the creation of a planning commission for consolidating school systems when an existing system is being disbanded or systems are merging and sets out considerations for those commissions that include the transfer of assets and liabilities. Current annexation laws in Tennessee require local agreements for transferring property and arbitration to settle disagreements. Providing a method in statute should ensure greater predictability and fairness for school systems and taxpayers and may reduce the likelihood of litigation. Because of the uncertainty surrounding this issue, **the General Assembly should establish a method for transferring school property, both real and personal, to new school systems formed by existing cities.** A local committee could be created to determine what property should be transferred and what the city should pay for it. Whoever determines the city's liability should consider past and future contributions of the city and the county to procure and maintain the property in question. Relevant unit costs in the BEP could be used to calculate the value of new real and personal property subject to transfer. For instance, textbook unit costs are based on the actual cost of textbooks that will be purchased for the upcoming school year. Currently, city residents vote in the referendum on whether to form a new city school system before they know what it will cost the city, and by extension the city's taxpayers, to acquire all of the property it will need to operate a school system. To remedy this, **the General Assembly should require that the purchase price of the property be determined before the city referendum on the creation of a city school system.**

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## Summary and Recommendations: Effects of Sharing of Revenue among School Systems in Counties with More than One School System

Public K-12 education in Tennessee is provided through school systems that in general are operated locally, either by counties, municipalities, or special school districts. State law requires each county to operate a K-12 school system, individually or in partnership with another county, unless all students in the county are served by municipal school systems and special school districts, as is the case only in Gibson County. Currently, 30 of the state's 95 counties have more than one school system. There are 94 county school systems, 33 municipal school systems, and 14 special school districts.

State law requires counties to share local revenue with city school systems and special school districts in the same counties, but there are no sharing requirements for cities and special school districts. Representatives of county officials in Tennessee have expressed concern that education revenue sharing requirements in Tennessee favor city school systems and special school districts at the expense of county school systems. City officials have expressed concerns of their own, mainly that these requirements can be an incentive to counties to find ways to work around them. Responding to these concerns, Senate Joint Resolution 593 (110<sup>th</sup> General Assembly), sponsored by Senator Haile, directs the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) to study the overall effects on public K-12 education of the laws and regulations related to the sharing of resources between multiple school systems in the same county and the effect of the operation of additional municipal or special school districts within a county.

Building-ownership and transfer of property can also become an issue when new school systems are formed within counties. Since 2013, six new city school systems formed in Shelby County, and other cities have also considered forming municipal school systems. Senate Joint Resolution 593 notes that "the creation of new school districts has in the past created conflict regarding the ownership of existing school buildings and facilities," and state law does not require counties to transfer school property to new school systems. Moreover, in the 110<sup>th</sup> General Assembly, Senate Bill 1755 by Senator Gardenhire, House Bill 1757 by Representative Harry Brooks, as amended, would have required TACIR to recommend "a process for determining the amount that a city must pay to fairly compensate the county for the school property the city seeks to obtain"; but the bill did not pass. Because the disposition of school buildings when a new school system is created relates directly to the division of resources among school systems located in that county, TACIR staff has included a review of other

"Multiple school districts in a county foster inequities in educational opportunities within counties in Tennessee."

Former Tennessee  
Comptroller of the Treasury  
William R. Snodgrass, 1989.

In counties with multiple school systems, whether local revenue must be shared among all systems in the county varies under state law depending on its source, what the revenue is allocated for, and whether it is earmarked for specific purposes.

states' processes for the transfer of real and personal school property when new school systems are formed.

### ***Local revenue sharing requirements vary for counties, cities, and special school districts under state law.***

Local revenue accounts for \$3.7 billion of the \$10.2 billion<sup>1</sup> of total K-12 education revenue in fiscal year 2017-18 in Tennessee. Almost all of it comes from local property and sales taxes. In counties with multiple school systems, whether local revenue must be shared among all systems in the county varies under state law depending on its source, what the revenue is allocated for, and whether it is earmarked for specific purposes. For instance, state law excludes from sharing requirements all revenue that is used for a "student transportation system" that serves all school systems in the county. Whenever sharing is required, revenue is distributed based on the weighted full-time equivalent average daily attendance for each school system in the county. This provides additional weight for students at different grade levels, career and technical students, and special education students, so the school systems they attend will receive more local revenue to meet the needs of the students they serve.

### **Property Taxes**

Property taxes are used by county, city, and special school districts to fund education, though only some of this property tax revenue must be shared. In counties with multiple school systems, countywide property taxes budgeted for education operations and maintenance expenses must be shared with all school systems in the county. In contrast, property taxes levied by cities or by special school districts, which are collected from businesses and residents located therein, do not have to be shared.

### **Local Option Sales Taxes**

State law requires that 50% of revenue generated by the countywide local option sales tax rate be shared with all school systems in the county. The other 50% is not earmarked and is distributed either to a city if the situs (location) of the sale is within the city or to a county if the situs of the sale is within the unincorporated part of the county. Cities may use any of their revenue, including the unearmarked half of sales tax revenue collected there, to fund their school systems without sharing with other school systems in the county. But if counties use their unearmarked sales tax revenue for operations and maintenance of their county school systems, the revenue must be shared with all school systems in the county. Special school districts cannot impose sales taxes.

<sup>1</sup> Excludes non-revenue receipts, which are receipts from sale of bonds, notes, lease proceeds, insurance recovery, and transfers. Non-revenue receipts were \$790.0 million in fiscal year 2017-18.

## Mixed Drink Tax

Half of mixed drink tax revenue is distributed to the state’s general fund and is earmarked for education purposes. The other half goes to the city in which the revenue was generated, or for sales in unincorporated parts of counties to the county, and half of the revenue is earmarked for school systems. For counties where the county school system is the only school system in the county, all of the revenue that is earmarked for education (both city and county) is distributed to the county school system, but in counties with more than one school system, the distribution is more complex.

Revenue that is earmarked for education generated within unincorporated parts of counties where a mixed drink tax is levied is distributed to the county school system. Revenue that is earmarked for education and that is generated within cities where a mixed drink tax is levied is distributed based on

- whether the city has a city school system,
- what grade levels the city school system serves,
- whether at least part of the city falls within a special school district,
- which school systems students residing in the city attend, and
- whether the city is in more than one county.

The formula for determining the distribution of revenue in counties with more than one school system was amended in 2014. The statute was amended to clarify the circumstances under which cities with a city school system are required to share their mixed drink tax revenue that is earmarked for education. Previously, five counties filed lawsuits to require cities to distribute some of their mixed drink tax revenue to county school systems. However, the Tennessee Supreme Court ruled in favor of the cities in 2019; and in 2020, the General Assembly removed the expiration date from the formula that was enacted in 2014—as discussed by TACIR members and staff during TACIR meetings, and as recommended in draft versions of this report.

## Requirements for Capital Expenditures

Counties often issue bonds for capital expenditures—including new schools, renovations, and buses. As set out in the Tennessee Code Annotated (Sections 49-3-1003 and 49-3-1005) and described by the University of Tennessee’s County Technical Assistance Service,

the law requires counties containing city schools or special school districts to distribute the proceeds from a bond issue for school capital purposes on an average daily attendance

The formula for determining the distribution of mixed drink tax revenue in counties with more than one school system was amended in 2014 to clarify the circumstances under which cities with a city school system are required to share their mixed drink tax revenue that is earmarked for education.



A county paying bonds for school capital purposes from a tax levied only on property in the county lying outside the limits of a city school system or special school districts—also referred to as a rural debt service district—is not required to share the bond proceeds.

Twenty-eight of 32 city school systems and all five special school districts in the multisystem counties received more local revenue per student than their county school systems did in fiscal year 2017-18.

basis, unless a tax district outside the city or special school district is established. If a tax district is not established, city systems and special school districts are entitled to a proportional share of the proceeds of a school bond issue, or they may waive their rights to such a share. If a tax district is established so that the school bonds are payable only from funds collected outside the city or special district, then the city or special school districts do not share in the proceeds (citations omitted).

Only six of 30 multisystem counties have chosen to establish tax districts—also referred to as rural debt service districts—outside their city or special school districts to fund their county school systems’ debt. Because commercial and industrial property is concentrated in cities, a given tax rate applied countywide usually generates more revenue for the county school system—even after sharing with the city school system or special school district—than a property tax for a rural debt service district would.

Bond proceeds are exempt from sharing requirements if they are used for capital expenditures for grade levels not served by the city or special school districts in a multisystem county. Moreover, when capital expenditures are funded from revenue that is not from note or bond proceeds, the Tennessee Court of Appeals has held that “a county may levy a special tax designated for a capital projects fund, such as ‘for the building, repair, and equipment of rural schools,’ or a ‘rural school building and repair fund,’” without having to share the revenue with other school systems in the county.

### ***Disparity in Local Revenue and Increase in County Indebtedness***

In fiscal year 2017-18, cities and special school districts in 28 multisystem counties with county school systems<sup>2</sup> raised \$139.4 million for city school systems and special districts that they did not have to share. This amounts to approximately \$1,237 per student. The 32 city systems in these counties received \$112.2 million in revenue that did not have to be shared—\$84.0 million in city general fund transfers, \$17.9 million in city property tax, and \$10.3 million in cities’ share of local option sales tax revenue. The five special school districts in these counties received \$27.2 million in special school district property tax revenue that they didn’t have to share.

As a result, 28 of 32 city school systems and all five special school districts in the multisystem counties received more local revenue per student than their county school systems did in fiscal year 2017-18. City school systems and special school districts in these counties received \$1,193 more per

<sup>2</sup> Excludes Gibson and Carroll counties. Gibson County does not have a county school system, and Carroll County’s county school system is not comparable to other school systems.

student in local revenue than the county school system. The additional revenue that city school systems and special school districts have access to can be used to pay higher teacher salaries, build and maintain facilities and provide additional programs, tutoring, and advanced classes, thus creating intra-county disparities in student services. It would take an additional \$413.3 million for those county school systems to equal the per-student revenue of the city and special school districts in them. In three of the multisystem counties, the county school systems received more local revenue on a per-student basis than at least one other school system. Crockett County Schools received more local revenue per student (\$1,272) than Alamo and Bells city school systems (\$958 and \$1,139), and Rhea County Schools received more local revenue per student (\$2,161) than Dayton's city school system (\$1,771). None of these city school systems have high schools, which because of their varied and more complex offerings are often more costly. Shelby County Schools received more revenue per student (\$4,462) than Lakeland's city school system (\$4,126) but less than the other five city school systems in Shelby County (\$4,597 to \$5,676).

Because the 30 counties with multiple school systems are required to share bond proceeds with all school systems in the county in most circumstances, these counties appear to be taking on more debt for education capital projects than would otherwise be necessary. Overall school debt per student in Tennessee's 141 school systems was more (\$6,049) for fiscal year 2015-16 than in single-system counties (\$5,653) and city school systems (\$4,406), but less than county school system debt in multisystem counties (\$6,964), which was second only to debt for special school districts (\$8,213).

As noted in the Commission's companion report, K-12 Public Education Funding and Services, meeting local needs and the requirements imposed by the federal and state governments often requires more resources than the Basic Education Program (BEP) funding formula alone provides. Given the ever evolving needs of communities in Tennessee and the likelihood that the BEP funding formula could better account for these needs, the Commission recommended in that report that a comprehensive review of the components be made by the BEP Review Committee or other designated state and local officials and other stakeholders to ensure that the BEP funding formula supports a commonly accepted basic level of education for Tennessee students. At an October 2020 meeting of the Commission's local government members, officials reiterated the need for a comprehensive review of the BEP funding formula. Because local tax bases vary markedly across the state, and because of complexities in the laws requiring those tax bases to be shared among school systems in the same county, local governments are unable to provide the resources necessary to meet local needs and federal and state requirements without imposing different tax rates. These challenges, along with differences

Multisystem counties appear to be taking on more debt for education capital projects than would otherwise be necessary without sharing requirements for bond proceeds.

across localities in the willingness of residents to raise taxes, can lead to both student and taxpayer inequities.

### ***Ensuring Equity for Students and Taxpayers***

According to some county representatives, disparities that result from the state’s current education revenue-sharing requirements raise equity concerns. City officials raise similar concerns about achieving equity for students and taxpayers and face their own challenges because of the complexity of Tennessee’s local tax and governance structures and school finance system. State courts, including Tennessee’s highest court, have taken the position that equity for students necessitates neither equal funding nor sameness but rather equal opportunity. Equality of opportunity has been a longstanding issue in education. As noted by the US Advisory Commission on Intergovernmental Relations in a 1975 report on education,

State courts, including Tennessee’s highest court, have taken the position that equity for students necessitates neither equal funding nor sameness but rather equal opportunity.

equality of educational opportunity is of critical importance in a democratic society dedicated to the proposition that all persons should have an equal chance to develop their potentialities to the fullest. This objective takes on particular urgency as technological advancement causes employment opportunities to become increasingly restricted to persons with professional and technical skills.

That reasoning led to passage of the Education Improvement Act of 1992 and adoption of the BEP formula. The formula is structured specifically to ensure “vertical” equity—treating different students differently—by providing additional funds for early-elementary and high school students, career and technical students, special education students, at-risk students, etc. “Horizontal” equity—treating similar students similarly—is achieved by equalizing funding across school systems, through a process that assumes local governments are imposing comparable tax rates, and then using state funds to make up the difference in the amount of local education revenue those rates produce. The state’s education funding formula computes the amount each Tennessee school system needs to fund the defined BEP, determines the amount of education revenue each county can fairly be required to raise, then makes up the difference with state funds. This process is described in the *Blue Book* produced by the State Board of Education and periodically evaluated by Commission staff in reports on student equity.

Taxpayer equity is another longstanding point of discussion in education finance. In a 1999 report, the National Research Council, part of the non-profit National Academy of Sciences, said,

From a school finance perspective, a system would be judged fair to taxpayers if every taxpayer was assured that a given tax rate would translate into the same amount of spending per pupil regardless of where the taxpayer lived.

In order to ensure that similarly situated taxpayers are treated similarly, the state imposes the same taxes on the same things regardless of location. To the extent that taxpayer equity is not achieved across local governments, residents control those decisions through the electoral process. They choose those who set tax rates, and so it can be said that they have chosen whatever differences exist between localities. Of course, that's not the case with respect to nonresident taxpayers, but they at least have some ability to choose where they procure goods and services and thus have some control over the rates they pay and to whom they pay them.

If public school funds were raised solely from residential property taxes, the problem could be easily solved. Residents who pay those taxes would be funding their own schools wherever counties, cities, and special school districts operate K-12 systems. Where cities or special school districts serve some but not all grade levels, something similar to the current structure for sharing county revenue for schools could be utilized to fund the grades that those cities or districts do not offer.

But that's not how public schools in Tennessee are funded. For instance, taxpayers living in city school systems or special school districts pay county property taxes in addition to city or special school district property taxes. The challenge is devising a way to ensure that taxpayers derive similar benefit from the taxes they pay regardless of whether they live in or receive services from the taxing jurisdiction. Consequently, Tennessee has several examples of taxpayer inequities, some of which favor cities and some of which favor counties.

A county's ability to use countywide revenue in lieu of bonds to fund education capital expenditures without sharing this revenue is one example that improves student equity at the expense of taxpayer equity. This is arguably unfair to taxpayers living in city school systems or special school districts, but it's one of only a few ways counties can address student equity under current law. **Because countywide property taxes and countywide local option sales taxes apply to property and sales within cities and special school districts, the General Assembly could require counties to share this revenue when they use it for education capital expenditures as is required when they use it for education operations and maintenance. But if the state does so, it should consider adopting other alternatives that would improve student equity in counties with multiple school systems while adhering to principles of taxpayer equity. Any such change should be prospective only so as not to create problems**

Tennessee has several examples of taxpayer inequities, some of which favor cities and some of which favor counties.

A system-level fiscal capacity model would account for intra-county differences and essentially eliminate intra-county disparities across school systems.

**with revenues committed to repayment of existing debt or with state or federal maintenance of effort requirements.**

**One alternative that could improve both student and taxpayer equity is to remove the requirement that counties share their portion of the unearmarked half of local option sales tax when it is budgeted for education operations and maintenance.** Because this revenue is distributed based on the situs (location) of the sale, none of it is generated within cities, and cities are not required to share their portion of the unearmarked half of local option sales tax revenue. If counties were to use all of the \$59.8 million in local option sales tax revenue generated in unincorporated areas to fund county school systems, it would still be far less than the \$413.3 million needed to eliminate funding intra-county disparities. Again, any such change should be prospective only so as not to create problems with revenues committed by cities to debt repayment or maintenance of effort requirements.

**Transitioning from calculating fiscal capacity at the county level to calculating it at the system level is another alternative that would decrease disparities for students as well as taxpayers.** Both Former Phil Governor Bredesen’s Task Force on Teacher Pay (2003) and the BEP Review Committee (2005) have previously recommended that the state adopt a system-level fiscal capacity model. In 2004, the General Assembly asked the BEP Review Committee to give special consideration to “the development and implementation of a system-level fiscal capacity model.” Fiscal capacity is the ability of local governments to raise revenue for education from local sources relative to other local governments. The state uses two capacity models to equalize state education funding through the BEP funding formula. Starting in school year 2007-08, a tax capacity model produced by the Center for Business and Economic Research (CBER) at the University of Tennessee has been used in combination with the county-level fiscal capacity model produced by TACIR and used since the inception of the BEP funding formula in 1992-93. Both models are calculated at the county level and don’t take into account several factors that drive intra-county disparities, most particularly the counties’ relative lack of access to unshared tax bases and the concentration of commercial and industrial tax bases within cities, both of which leave counties with less ability to raise local revenue for county school systems when compared with city school systems and special school districts in the same county. A system-level fiscal capacity model would account for these intra-county differences and essentially eliminate intra-county disparities across school systems. For illustrative purposes only, the prototype system-level fiscal capacity model developed by TACIR and the Tennessee Comptroller of the Treasury staff in 2004, updated to include current data, is provided in appendix G. The original version of this model was reviewed by outside experts at Middle Tennessee State University, Tennessee State University, and Vanderbilt



University. Other system-level models could be developed, either by the Commission or by other entities.

### ***Transfer of Property to New City School Systems***

Creating new school systems can lead to conflicts over buildings and facilities. State laws prohibiting the forming of new school systems were enacted for special school districts in 1982 and for city school systems in 1998. New special school districts are still prohibited, but the law for city schools was changed in 2013. Since that time, six Shelby County cities have formed new school systems and other cities have considered doing so. Although these cities are required by law to provide appropriate school facilities, counties are not required to transfer school property to them.

While the law in Tennessee does not speak to the transfer of real or personal property when an existing city forms a new school system, current annexation statutes and those for disbanding school systems, the agreements reached in the creation of city school systems in Shelby County, as well as laws in other states, may provide guidance for establishing requirements and methods. Options range from imposing specific obligations to requiring a local committee to create a plan for the transfer by agreement. For example, current statutes authorize the creation of a planning commission for consolidating school systems when an existing system is being disbanded or systems are merging and sets out considerations for those commissions that include the transfer of assets and liabilities. Current annexation laws in Tennessee require local agreements for transferring property and arbitration to settle disagreements. Laws in a few states also address transferring titles of school property between school systems and the settlement of outstanding debt for the property, but no examples of the use of those laws in recent decades were found.

Providing a method in statute should ensure greater predictability and fairness for school systems and taxpayers and may reduce the likelihood of litigation. **The General Assembly should establish a method for transferring school property, both real and personal, to new school systems formed by existing cities. A local committee could be created to determine what property should be transferred and what the city should pay for it. Whoever determines the city's liability should consider past and future contributions of the city and the county to procure and maintain the property in question. Relevant unit costs in the BEP could be used to calculate the value of new real and personal property subject to transfer. For instance, textbook unit costs are based on the actual cost of textbooks that will be purchased for the upcoming school year.**

Currently, city residents vote in a referendum on whether to form a new city school system before they know what it will cost the city, and by extension the city's taxpayers, to acquire all of the property it will need.

The law in Tennessee does not speak to the transfer of real or personal property when an existing city forms a new school system.

**The General Assembly should require that the purchase price of the property be determined before the city referendum on the creation of a city school system.**

***Other concerns about local revenue and services in Tennessee warrant further study.***

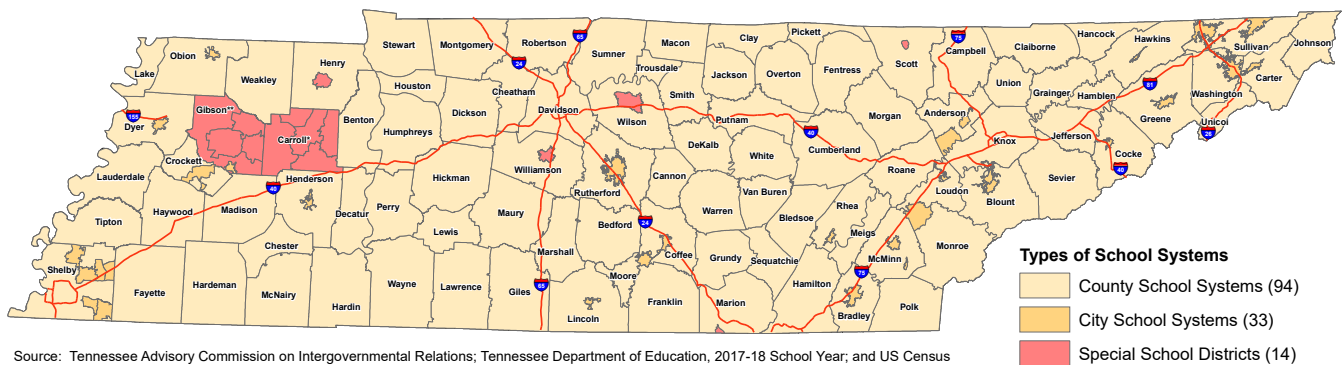
In addition to this report, TACIR has completed its work on the local revenue and services series. During its discussion of House Bill 971 by Representative Sargent, Senate Bill 1075 by Senator Watson, the House Finance Ways and Means Committee asked TACIR to study the revenue sources of cities and counties in Tennessee and the services cities and counties provide. In February 2019, TACIR published the first interim report in this series on Internet Sales Tax in Tennessee, and the second interim report on K-12 education funding was published in January 2020. Its more holistic treatment of revenue provides helpful context for evaluating other potential sources of education funding: state-shared taxes, for instance. The third and final report in the series, which will be published in December 2020, provides a broad overview of the services local governments in Tennessee provide—including both required services and those that are authorized but not required—and the revenue available to fund them. This set of reports is designed to form a foundation for further work by a task force of stakeholders to develop a set of specific legislative proposals for consideration by the Governor and the General Assembly. Any such task force, to be successful, must include representatives of those affected by the changes as well as those with responsibility for adopting and implementing them.

This report, along with the set of reports in the local revenue and services series, is designed to form a foundation for further work by a task force of stakeholders to develop a set of specific legislative proposals for consideration by the Governor and the General Assembly.

## Analysis: Effects of Sharing of Revenue among School Systems in Counties with More than One School System

Public K-12 education in Tennessee is provided through school systems that in general are operated locally—either by counties, municipalities, or special school districts.<sup>3</sup> State law requires each county to operate a K-12 school system, either individually or in partnership with another county, unless all students in the county are served by municipal school systems and special school districts, as is presently the case in Gibson County only.<sup>4</sup> Currently, 30 of the state’s 95 counties have more than one school system. There are 94 county school systems, 33 municipal school systems, and 14 special school districts.<sup>5</sup> See maps 1 and 2 and table 1.

**Map 1. Tennessee Public School Systems**



Source: Tennessee Advisory Commission on Intergovernmental Relations; Tennessee Department of Education, 2017-18 School Year; and US Census Bureau, American Community Service 5-Year Estimates.

\*Carroll County is divided into five special school districts. Carroll County Schools is a countywide system that provides a Technical Training Center, a Special Learning Center, an alternative school, and transportation services to all students in the county.

\*\*Gibson County consists of one city school system, four special school districts, and no county school system.

**Map 2. Counties with Multiple School Systems**



Source: Tennessee Advisory Commission on Intergovernmental Relations; Tennessee Department of Education, 2017-18 School Year; and US Census Bureau, American Community Service 5-Year Estimates.

\*Carroll County is divided into five special school districts. Carroll County Schools is a countywide system that provides a Technical Training Center, a Special Learning Center, an alternative school, and transportation services to all students in the county.

\*\*Gibson County consists of one city school system, four special school districts, and no county school system.

<sup>3</sup> Tennessee Department of Education “2017-18 Annual Statistical Report.”

<sup>4</sup> Tennessee Code Annotated, Section 49-2-101 *et seq.*

<sup>5</sup> Tennessee Department of Education “2017-18 Annual Statistical Report.”



**Table 1. Number of Tennessee Public School Systems by County  
Fiscal Year 2017-18**

County	Number of County School Systems	Number of City School Systems	Number of Special School Districts	Total Number of School Systems
Single-system	65	0	0	65
County and City Systems	23	32	0	55
County System and Special School Districts	6	0	10	16
City Systems and Special School Districts	0	1	4	5
<b>Total</b>	<b>94</b>	<b>33</b>	<b>14</b>	<b>141</b>

Source: Tennessee Department of Education, 2018 Annual Statistical Report.

Representatives of county officials in Tennessee have expressed concern that education revenue sharing requirements in the state favor city school systems and special school districts at the expense of county school systems.

State law requires counties to share local revenue with city school systems and special school districts in the same counties,<sup>6</sup> but there are no sharing requirements for cities and special school districts. Representatives of county officials in Tennessee have expressed concern that education revenue sharing requirements in the state favor city school systems and special school districts at the expense of county school systems.<sup>7</sup> Responding to these concerns, Senate Joint Resolution 593 directs the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) to study both the overall effects on public K-12 education of the laws and regulations related to the sharing of resources between multiple school systems in the same county and the effect of the operation of additional municipal or special school districts within a county (see appendix A).

Senate Joint Resolution 593 also notes that “the creation of new school districts has in the past created conflict regarding the ownership of existing school buildings and facilities,” and state law does not require counties to transfer school property to new school systems. In the 110<sup>th</sup> General Assembly, Senate Bill 1755 by Senator Gardenhire, House Bill 1757 by Representative Harry Brooks, as amended, would have required TACIR to recommend “a process for determining the amount that a city must pay to fairly compensate the county for the school property the city seeks to obtain,” but the bill did not pass (see appendixes B and C).

***Whether local revenues must be shared varies under state law***

In counties with multiple school systems, revenue raised for K-12 education may or may not be shared among all systems in the county—

<sup>6</sup> Tennessee Code Annotated, Sections 49-3-315(a), 49-3-1003, and 9-21-129. See also *Harriman v. Roane County*, 553 S.W.2d 904 (Tenn. 1977).

<sup>7</sup> Interviews with Dan Eldridge, mayor of Washington County and Richard Venable, mayor of Sullivan County.

under state law—depending on the revenue’s source, what it is allocated for, and whether it is earmarked for specific purposes. For instance, state law excludes from sharing requirements revenue used for a “student transportation” system that serves all school systems in the county.<sup>8</sup> Revenue from federal sources, including payments in lieu of taxes from the Tennessee Valley Authority, is also excluded from these requirements regardless of how it is spent.<sup>9</sup> In contrast, revenue from state and local sources that counties allocate for schools’ operation and maintenance must be shared with all school systems in the county.<sup>10</sup>

Local county revenue is subject to sharing requirements, but local revenue from cities and special school districts is not. Given that local revenue accounted for \$3.7 billion of the \$10.2 billion<sup>11</sup> in public K-12 education revenue for fiscal year 2017-18 in Tennessee<sup>12</sup>—state funding amounted to \$4.9 billion and federal revenue was \$1.2 billion<sup>13</sup>—these sharing requirements affect a substantial portion of education revenue. Whenever sharing is required, revenue is distributed based on the weighted full-time equivalent average daily attendance (WFTEADA) for each school system in the county (see appendix D).<sup>14</sup> This provides additional weight for students at different grade levels, career and technical students, and special education students so that the school systems they attend will receive more local revenue to meet the needs of the students they serve.<sup>15</sup>

Almost all of the local revenue affected by these sharing requirements comes from local property and local option sales taxes. Sharing requirements also apply to some of the revenue from both the mixed drink tax and the revenue used for capital expenditures, while interest earned on general-purpose school funds is exempt.

Local county revenue is subject to sharing requirements, but local revenue from cities and special school districts is not.

<sup>8</sup> Tennessee Code Annotated, Section 49-3-315(a).

<sup>9</sup> State ex rel. Conger v. Madison County, 581 S.W.2d 632 (Tenn. 1979); Oak Ridge City Schools v. Anderson County, 677 S.W.2d 468 (Tenn. Ct. App. 1984); Crider v. Henry County, 295 S.W.3d 269 (Tenn. Ct. App. 2008). TVA PILOT revenue distributed to local governments is not earmarked and may be used for any local government purpose, including education. For fiscal year 2017-18, the state distributed \$103.0 million in TVA PILOTs to county governments in Tennessee, of which counties with more than one school system received \$42.5 million and used \$22.8 million (53.6%) to fund county school systems. See TACIR’s 2019 report *Tennessee Valley Authority’s Payments in Lieu of Taxes Annual Report to the Tennessee General Assembly*.

<sup>10</sup> Tennessee Code Annotated, Section 49-3-315(a).

<sup>11</sup> Excludes non-revenue receipts, which are receipts from sale of bonds, notes, lease proceeds, insurance recovery, and transfers. Non-revenue receipts were \$790.0 million in fiscal year 2017-18.

<sup>12</sup> Tennessee Department of Education “2017-18 Annual Statistical Report.”

<sup>13</sup> Ibid.

<sup>14</sup> Tennessee Code Annotated, Sections 49-3-315(a), 49-3-1003, and 9-21-129.

<sup>15</sup> Tennessee Department of Education.

Countywide property taxes budgeted for education operations and maintenance expenses must be shared with all school systems in the county.

## Property Taxes

Local property taxes can be levied by counties, cities, and special school districts<sup>16</sup> and are used by each to fund education.<sup>17</sup> Countywide property taxes, in particular, are the largest source of local revenue used for K-12 education in Tennessee, accounting for \$2.1 billion of the \$3.7 billion in local revenue raised for education in fiscal year 2017-18.<sup>18</sup>

In counties with multiple school systems, countywide property taxes budgeted for education operations and maintenance expenses must be shared with all school systems in the county.<sup>19</sup> In contrast, property taxes levied by cities, which are collected from city businesses and residents, do not have to be shared. Likewise, no sharing requirement is placed on property tax revenue collected by special school districts from businesses and residents located therein.

## Local Option Sales Taxes

Counties and cities can impose local option sales taxes, though special school districts cannot. Local option sales tax accounted for \$1.3 billion of \$3.7 billion in local revenue for K-12 education in Tennessee in fiscal year 2017-18.<sup>20</sup>

State law requires that 50% of revenue generated by the countywide local option sales tax rate be shared with all school systems in the county.<sup>21</sup> The other 50% is not earmarked and is distributed either to a city, if the situs (location) of the sale is within the city, or to a county if the situs of the sale is within the unincorporated part of the county. Cities may use any of their revenue, including the unearmarked half of sales tax revenue collected there, to fund their city school systems without sharing with other school systems in the county. However, a counties' unearmarked local option sales tax revenue (\$59.8 million in fiscal year 2017-18)<sup>22</sup> that is used for education operations and maintenance must be shared with all school systems in the county.<sup>23</sup>

## Mixed Drink Tax

In counties and cities that have approved, by referendum, sales of liquor-by-the-drink, also known as mixed drinks, state law imposes a 15% tax

<sup>16</sup> Tennessee Code Annotated, Sections 67-5-102 and 67-5-103. Special school districts are authorized to levy property taxes by private act.

<sup>17</sup> Tennessee Department of Education "2017-18 Annual Statistical Report."

<sup>18</sup> Ibid.

<sup>19</sup> Tennessee Code Annotated, Section 49-3-315(a).

<sup>20</sup> Tennessee Department of Education.

<sup>21</sup> Tennessee Code Annotated, Section 67-6-712.

<sup>22</sup> TACIR staff calculation based on data from the Tennessee Department of Revenue.

<sup>23</sup> Tennessee Code Annotated, Sections 49-3-315(a) and 57-4-103. See also *Harriman v. Roane County*, 553 S.W.2d 904 (Tenn. 1977).

on those sales. Half of mixed drink tax revenue (\$58.9 million in fiscal year 2017-18) is distributed to the state's general fund and is earmarked for education purposes<sup>24</sup>; the other half is distributed to the city (\$56.6 million in fiscal year 2017-18) or county (\$2.3 million in fiscal year 2017-18) in which the revenue was generated,<sup>25</sup> and half of that is earmarked for school systems. For counties where the county school system is the only school system in the county, all of the revenue that is earmarked for education (both city and county) is distributed to the county school system, but in counties with more than one school system, the distribution is more complex.

Revenue that is earmarked for education generated within unincorporated parts of counties where a mixed drink tax is levied is distributed to the county school system. Revenue that is earmarked for education and that is generated within cities where a mixed drink tax is levied is distributed based on whether the city has a city school system, what grade levels the city school system serves, whether at least part of the city falls within a special school district (SSD), which school systems students residing in the city attend, and whether the city is in more than one county:

- If the city where the revenues are collected operates a K-12 school system, the city keeps all revenue for its schools.
- If the city where the revenues are collected does not serve all grade levels, K through 12, the proceeds are to be distributed to the school systems where students that reside in the city attend school, according to weighted full-time equivalent average daily attendance (WFTEADA).<sup>26</sup>
- If an SSD is in the city where the revenues are collected, the revenues are allocated by WFTEADA to the SSD and to the county school system.
- If the city lies in two or more counties, the proceeds are allocated to the county in which they are collected according to the location of the business collecting them.

The current distribution was first enacted in 2014, amending previous language, which some found ambiguous. The statute was amended to clarify the circumstances under which cities with a city school system are required to share their mixed drink tax revenue that is earmarked for education. Previously, five counties filed lawsuits to require cities to distribute some of their mixed drink tax revenue to county school systems. Before it was amended in 2014, state law required half of the revenue distributed to local governments to be distributed "in the same manner as the county property tax for schools is expended and distributed," that is,

The mixed drink tax statute was amended to clarify the circumstances under which cities with a city school system are required to share their mixed drink tax revenue that is earmarked for education.

<sup>24</sup> Tennessee Department of Revenue "2017-18 Annual Report."

<sup>25</sup> Tennessee Code Annotated, Section 57-4-306(a).

<sup>26</sup> Public Chapter 901, Acts of 2014 and Public Chapter 194, Acts of 2019.

“The law requires counties containing city schools or special school districts to distribute the proceeds from a bond issue for school capital purposes on an average daily attendance basis, unless a tax district outside the city or special school district is established.”

University of Tennessee,  
County Technical Assistance  
Service

to each school system in the county based on weighted full-time equivalent average daily attendance (WFTEADA). However, the Supreme Court of Tennessee ruled in favor of the cities in 2019,<sup>27</sup> and in 2020, the General Assembly removed the expiration date from the distribution formula that was enacted in 2014.<sup>28</sup>

The court’s rulings relied in part on its understanding of the distribution that the Legislature intended. Attorney General Opinions issued in the early 1980s interpreted the statute to mean that the distribution of the mixed drink tax revenue that is earmarked for education depended on whether a city operates its own school system.<sup>29</sup> Consistent with those opinions, cities had been keeping the earmarked revenue for their city school systems for more than 30 years. In its opinion, the Supreme Court of Tennessee said that “the Legislature’s failure to amend the distribution statute after the Attorney General opinions and the universal practical construction of the statute by counties and cities across Tennessee serves as . . . persuasive evidence of the Legislature’s intent to adopt that interpretation.”<sup>30</sup>

### Requirements for Capital Expenditures

Counties often issue bonds for capital expenditures—including new schools, renovations, and buses.<sup>31</sup> More than \$500 million was spent on education capital projects for Tennessee schools in 2017-18,<sup>32</sup> primarily financed with bond proceeds.<sup>33</sup> Whether these bond proceeds must be shared depends on whether they are backed by revenue from areas that include city school systems or special school districts.

According to the University of Tennessee, County Technical Assistance Service,

the law requires counties containing city schools or special school districts to distribute the proceeds from a bond issue for school capital purposes on an average daily attendance basis, unless a tax district outside the city or special school district is established. If a tax district is not established, city systems and special school districts are entitled to a proportional share of the proceeds of a school bond issue, or they may waive their rights to such a share. If a tax

<sup>27</sup> Coffee Cty. Bd. of Educ. v. City of Tullahoma, 2018 Tenn. App. LEXIS 29 (Tenn. Ct. App., Jan. 23, 2018).

<sup>28</sup> Public Chapter 696, Acts of 2020.

<sup>29</sup> Tenn. Op. Att’y Gen. 83-36, 1983 Tenn. AG LEXIS 381 (Jan. 18, 1983); Tenn. Op. Att’y Gen. 81-270, 10 Op. Att’y Gen. Tenn. 711 (Apr. 27, 1981); Tenn. Op. Att’y Gen. 80-457, 10 Op. Att’y Gen. Tenn. 231 (Sept. 19, 1980).

<sup>30</sup> Coffee Cty. Bd. of Educ. v. City of Tullahoma, 2018 Tenn. App. LEXIS 29 (Tenn. Ct. App., Jan. 23, 2018).

<sup>31</sup> Electronic Municipal Market Access, <https://emma.msrb.org/> (Downloaded on May 7, 2019).

<sup>32</sup> Tennessee Department of Education “2017-18 Annual Statistical Report, Table 49.”

<sup>33</sup> Electronic Municipal Market Access, <https://emma.msrb.org/> (Downloaded on May 7, 2019).

district is established so that the school bonds are payable only from funds collected outside the city or special district, then the city or special school districts do not share in the proceeds (citations omitted).<sup>34</sup>

Specifically, state law requires that “the trustee of the county shall pay over to the treasurer of the city that amount of the funds that bear the same ratio to the entire amount arising from this part as the [weighted full time equivalent] average daily attendance . . . bears to the entire [weighted full time equivalent] average daily attendance.”<sup>35</sup> An identically worded statute requires counties to share with special school districts.<sup>36</sup> Similarly, “proceeds from the sale of bonds or notes . . . for school capital outlay purposes shall be shared with any municipal or special school district system within the county or metropolitan government.”<sup>37</sup> Only six of the 30 multisystem counties have chosen to establish tax districts—sometimes referred to as rural tax districts—outside their city or special school districts to fund their county school systems’ debt (see table 2).<sup>38</sup>

**Table 2. Property Tax Revenue for Rural Debt Service Funds by County, Fiscal Year 2017-18**

County	Property Tax Revenue for Rural Debt Service Funds
Williamson	\$ 19,968,574
Roane	1,463,275
Marion	1,300,000
Scott	690,000
Coffee	589,845
Anderson	173,000
<b>Total</b>	<b>\$ 24,184,694</b>

Source: TACIR Staff calculations based on rural debt service property tax rates and assessments.

Because commercial and industrial property are concentrated in cities (see appendix E), a given tax rate applied countywide usually generates more revenue for the county school system—even after sharing with the city school system or special school district—than a property tax for a rural debt service district would. This is the case in 21 of the state’s multisystem counties (see table 3). Four of the six multisystem counties with rural tax districts would generate more revenue for their county school systems through a countywide property tax levied at the same rate as the property tax on their rural tax districts, even after accounting for sharing requirements.

<sup>34</sup> University of Tennessee County Technical Assistance Service “School Bonds.”

<sup>35</sup> Tennessee Code Annotated, Section 49-3-1003(b)(1).

<sup>36</sup> Tennessee Code Annotated, Section 49-3-1003(c)(1).

<sup>37</sup> Tennessee Code Annotated, Section 9-21-129(a).

<sup>38</sup> University of Tennessee County Technical Assistance Service, Tennessee County Tax Statistics, Fiscal Year 2018-19.

Only six of the 30 multisystem counties have chosen to establish tax districts—sometimes referred to as rural tax districts—outside their city or special school districts to fund their county school systems’ debt.

“The disparity simply can’t be fixed by increasing taxes on the rural property owners.”

Former Mayor of Washington County Dan Eldridge, 2016



**Table 3. Comparison of Rural Tax District Revenue to Actual Property Tax Revenue after Sharing, Fiscal Year 2017-18**

Multisystem County	Rural Property Assessment (Outside City/SSD)*	School Property Tax Rate**	Rural Tax District Revenue	County Share of Actual Property Tax Revenue for Schools After Sharing***	Difference
Anderson	\$628,176,798	1.61050	\$10,116,787	\$15,639,387	(\$5,522,600)
Blount	\$2,127,762,019	1.07000	\$22,767,054	\$22,492,980	\$274,074
Bradley	\$1,101,526,753	0.75020	\$8,263,654	\$12,757,563	(\$4,493,909)
Carter	\$574,761,060	1.12100	\$6,443,071	\$6,551,104	(\$108,033)
Cocke	\$449,980,753	0.57700	\$2,596,389	\$3,128,658	(\$532,269)
Coffee	\$752,179,776	1.64960	\$12,407,958	\$8,943,714	\$3,464,244
Crockett	\$175,104,933	0.67470	\$1,181,433	\$1,155,505	\$25,928
Dyer	\$369,393,381	0.91400	\$3,376,256	\$3,643,019	(\$266,763)
Franklin	\$991,429,212	1.04110	\$10,321,770	\$10,491,342	(\$169,572)
Greene	\$932,950,030	0.77530	\$7,233,162	\$7,316,524	(\$83,362)
Hawkins	\$882,308,101	0.64000	\$5,646,772	\$7,907,998	(\$2,261,226)
Henderson	\$252,686,529	0.64000	\$1,617,194	\$2,356,361	(\$739,167)
Henry	\$442,688,087	0.78790	\$3,487,939	\$5,118,328	(\$1,630,389)
Lincoln	\$435,034,035	0.78830	\$3,429,373	\$3,510,640	(\$81,267)
Loudon	\$1,543,409,469	0.86200	\$13,304,190	\$10,885,791	\$2,418,399
Marion	\$680,774,664	0.78770	\$5,362,462	\$5,399,161	(\$36,699)
McMinn	\$727,466,584	0.74690	\$5,433,448	\$6,733,573	(\$1,300,125)
Monroe	\$992,225,302	0.63400	\$6,290,708	\$5,217,809	\$1,072,899
Obion	\$428,950,406	1.12000	\$4,804,245	\$4,531,072	\$273,173
Rhea	\$475,112,964	0.42220	\$2,005,927	\$2,388,757	(\$382,830)
Roane	\$1,110,205,527	1.22500	\$13,600,018	\$14,855,694	(\$1,255,676)
Rutherford	\$4,990,470,143	1.28350	\$64,052,684	\$79,385,101	(\$15,332,417)
Scott	\$278,304,771	0.85300	\$2,373,940	\$2,049,428	\$324,512
Shelby	\$14,574,956,899	1.99000	\$290,041,642	\$385,464,792	(\$95,423,150)
Sullivan	\$1,407,595,768	1.35300	\$19,044,771	\$25,068,490	(\$6,023,719)
Washington	\$1,209,139,096	0.82560	\$9,982,652	\$13,183,011	(\$3,200,359)
Williamson	\$9,948,066,932	1.21000	\$120,371,610	\$137,041,726	(\$16,670,116)
Wilson	\$3,146,847,723	1.17450	\$36,959,727	\$39,638,126	(\$2,678,399)

Sources: TACIR staff calculations based on data from the Comptroller of the Treasury, the University of Tennessee County Technical Assistance Service, and County comprehensive annual financial reports.

\*2018 Tax Aggregate Report of Tennessee, Division of Property Assessments, Comptroller of the Treasury (Table 1 Summary of 2018 Assessments for Counties and Municipalities in Tennessee).

\*\*Tennessee County Tax Statistics FY 2018, University of Tennessee County Technical Assistance Service.

\*\*\*County comprehensive annual financial reports.

Bond proceeds are exempt from sharing requirements if they are used for capital expenditures for grade levels not served by the city or special school districts in a multisystem county. Newport City Schools operates a K-8 school system, and when Cocke County issued a bond for high school improvements, the City of Newport sued for its proportionate share of the bond proceeds, asserting that the new facilities were sometimes used by K-8 students attending Cocke County Schools. But the court ruled that the bond's main purpose was to

improve high school facilities, and “a city or special school district which operates no high schools is not entitled to the pro-rata distribution of the proceeds of bonds issued by a county for high school purposes.”<sup>39</sup> This situation is only possible in counties where one or more of the city school systems or special school districts are not K-12 systems. All 94 county school systems in Tennessee are K-12. Of the 33 city school systems, 20 are K-12, nine are K-8, three are K-6, and one is K-5. Of the 14 special school districts, 11 are K-12 and three are K-8 (see table 4).

**Table 4. Grades Served by School System, Fiscal Year 2017-18**

School System	System Type	Grades Served
Anderson County	County	K-12
Clinton	City	K-6
Oak Ridge	City	K-12
Bedford County	County	K-12
Benton County	County	K-12
Bledsoe County	County	K-12
Blount County	County	K-12
Alcoa	City	K-12
Maryville	City	K-12
Bradley County	County	K-12
Cleveland	City	K-12
Campbell County	County	K-12
Cannon County	County	K-12
Carroll County*	County	K-12
Hollow Rock-Bruceton SSD	SSD	K-12
Huntingdon SSD	SSD	K-12
McKenzie SSD	SSD	K-12
South Carroll SSD	SSD	K-12
West Carroll SSD	SSD	K-12
Carter County	County	K-12
Elizabethton	City	K-12
Cheatham County	County	K-12
Chester County	County	K-12
Claiborne County	County	K-12
Clay County	County	K-12
Cocke County	County	K-12
Newport	City	K-8
Coffee County	County	K-12
Manchester	City	K-8
Tullahoma	City	K-12
Crockett County	County	K-12
Alamo	City	K-6
Bells	City	K-5

Bond proceeds are exempt from sharing requirements if they are used for capital expenditures for grade levels not served by the city or special school districts in a multisystem county.

<sup>39</sup> Newport v. Cocke County, 703 S.W.2d 626 (Tenn. Ct. App. 1985). See also Moody v. Williamson County, 212 Tenn. 666, 371 S.W.2d 454 (1963).



**Table 4. Grades Served by School System, Fiscal Year 2017-18 (cont.)**

School System	System Type	Grades Served
Cumberland County	County	K-12
Davidson County	County	K-12
Decatur County	County	K-12
DeKalb County	County	K-12
Dickson County	County	K-12
Dyer County	County	K-12
Dyersburg	City	K-12
Fayette County	County	K-12
Fentress County	County	K-12
Franklin County	County	K-12
Humboldt	City	K-12
Milan SSD	SSD	K-12
Trenton SSD	SSD	K-12
Bradford SSD	SSD	K-12
Gibson County SSD	SSD	K-12
Giles County	County	K-12
Grainger County	County	K-12
Greene County	County	K-12
Greeneville	City	K-12
Grundy County	County	K-12
Hamblen County	County	K-12
Hamilton County	County	K-12
Hancock County	County	K-12
Hardeman County	County	K-12
Hardin County	County	K-12
Hawkins County	County	K-12
Rogersville	City	K-8
Haywood County	County	K-12
Henderson County	County	K-12
Lexington	City	K-8
Henry County	County	K-12
Paris SSD	SSD	K-8
Hickman County	County	K-12
Houston County	County	K-12
Humphreys County	County	K-12
Jackson County	County	K-12
Jefferson County	County	K-12
Johnson County	County	K-12
Knox County	County	K-12
Lake County	County	K-12
Lauderdale County	County	K-12
Lawrence County	County	K-12
Lewis County	County	K-12
Lincoln County	County	K-12
Fayetteville	City	K-12
Loudon County	County	K-12
Lenoir City	City	K-12

Table 4. Grades Served by School System, Fiscal Year 2017-18 (cont.)

School System	System Type	Grades Served
McMinn County	County	K-12
Athens	City	K-8
Etowah	City	K-8
McNairy County	County	K-12
Macon County	County	K-12
Madison County	County	K-12
Marion County	County	K-12
Richard City SSD	SSD	K-12
Marshall County	County	K-12
Maury County	County	K-12
Meigs County	County	K-12
Monroe County	County	K-12
Sweetwater	City	K-8
Montgomery County	County	K-12
Moore County	County	K-12
Morgan County	County	K-12
Obion County	County	K-12
Union City	City	K-12
Overton County	County	K-12
Perry County	County	K-12
Pickett County	County	K-12
Polk County	County	K-12
Putnam County	County	K-12
Rhea County	County	K-12
Dayton	City	K-8
Roane County	County	K-12
Robertson County	County	K-12
Rutherford County	County	K-12
Murfreesboro	City	K-6
Scott County	County	K-12
Oneida SSD	SSD	K-12
Sequatchie County	County	K-12
Sevier County	County	K-12
Shelby County	County	K-12
Arlington	City	K-12
Bartlett	City	K-12
Collierville	City	K-12
Germantown	City	K-12
Lakeland	City	K-8
Millington	City	K-12
Smith County	County	K-12
Stewart County	County	K-12
Sullivan County	County	K-12
Bristol	City	K-12
Kingsport	City	K-12
Sumner County	County	K-12
Tipton County	County	K-12

**Table 4. Grades Served by School System, Fiscal Year 2017-18 (cont.)**

School System	System Type	Grades Served
Trousdale County	County	K-12
Unicoi County	County	K-12
Union County	County	K-12
Van Buren County	County	K-12
Warren County	County	K-12
Washington County	County	K-12
Johnson City	City	K-12
Wayne County	County	K-12
Weakley County	County	K-12
White County	County	K-12
Williamson County	County	K-12
Franklin SSD	SSD	K-8
Wilson County	County	K-12
Lebanon SSD	SSD	K-8

Source: Tennessee Department of Education, 2018 Annual Statistical Report.  
 \*Carroll County has five special school districts. Carroll County Schools is a countywide school system that provides a technical training center, a special learning center, an alternative school, and transportation services to all public school systems in the county and is not comparable to other school systems in the state.

“The Education Finance Act, by its language, does not require apportionment of funds that are not designated for current operation and maintenance purposes.”

*City of Athens Board of Education v. McMinn County*  
 (Tennessee Court of Appeals)

When capital expenditures are funded from revenue that is not from note or bond proceeds, the Tennessee Court of Appeals has held that “a county may levy a special tax designated for a capital projects fund such as ‘for the building, repair, and equipment of rural schools,’ or a ‘Rural School Building and Repair Fund’” without having to share the revenue with other school systems in the county.<sup>40</sup> McMinn County began apportioning funds from countywide property tax collections to an “educational capital projects fund” in 1996, and in 2014 the City of Athens Board of Education sued for its proportionate share of the revenue.<sup>41</sup> But the Court sided with the county, citing a state law that says “all school funds for current operation and maintenance purposes collected by any county . . . shall be apportioned by the county trustee among the [local education agencies] on the basis of [weighted full-time equivalent average daily attendance].”<sup>42</sup> The Court agreed with the county that funds collected for future capital costs are not for “current operation and maintenance” and are therefore not required to be apportioned to the city school systems in McMinn County.<sup>43</sup> All seven of the counties in Tennessee that have education projects in their general capital projects funds are counties with more than one school system: Coffee, Lincoln, McMinn, Rutherford, Sullivan, Washington, and Williamson.<sup>44</sup> Revenue used for school facility lease payments, another alternative to note or bond proceeds, may not be subject

<sup>40</sup> *City of Athens Board of Education v. McMinn County*, 467 S.W.3d 458 (Tenn. Ct. App. 2014). See also Tennessee Code Annotated, Section 49-3-1005(b).

<sup>41</sup> *City of Athens Board of Education v. McMinn County*, 467 S.W.3d 458 (Tenn. Ct. App. 2014).

<sup>42</sup> Tennessee Code Annotated, Section 49-3-315(a).

<sup>43</sup> *City of Athens Board of Education v. McMinn County*, 467 S.W.3d 458 (Tenn. Ct. App. 2014).

<sup>44</sup> County comprehensive annual financial reports.

to sharing requirements. In October 2019, Washington County approved a lease-purchase agreement with the city of Jonesborough, which plans to issue bonds to build a K-8 school. Washington County is negotiating a fund-sharing agreement with Johnson City Schools to avoid being sued by them over whether sharing is required by state law in this instance.<sup>45</sup> A bill filed in 2019 would expand the application of the sharing requirement to funds raised for capital projects, but the bill has not passed.<sup>46</sup>

Although city school systems and special school districts are able to use their share of bond proceeds, it can be difficult to plan for because their capital needs may not correspond to bonds issued for the county school system in timing or in cost. City school systems in Shelby County reported difficulty knowing “when—or if—capital improvements funding will come their way if the projects being done by [Shelby County Schools] get behind schedule.”<sup>47</sup>

### Interest Earned on General-Purpose School Funds

According to a 2013 Attorney General’s Opinion, interest earned on money in general-purpose school funds does not have to be shared, for instance, when used by a county government for non-school related purposes.<sup>48</sup> Specifically, state law says that “any interest earned on funds that have previously been apportioned to the [school systems] within the county is not subject to apportionment.”<sup>49</sup>

### *Sharing requirements contribute to disparities in local revenue and increases in county indebtedness*

As noted above, representatives of county officials have expressed concern that the existing sharing requirements favor city school systems and special school districts at the expense of county school systems.<sup>50</sup> While the state’s sharing requirements ensure that those living in special school districts and in cities with city school systems receive a share of the county taxes they pay to the county—as well as a share of the unearmarked half of local sales tax revenue, regardless of where it’s collected—to help fund public education in their communities, placing sharing requirements on counties but not on cities and special school districts prevents counties from using countywide revenue to close funding gaps with city school systems and special school districts. To meet those sharing requirements, these counties are also carrying more debt than they otherwise would.

Placing sharing requirements on counties but not on cities and special school districts prevents counties from using countywide revenue to close funding gaps with city school systems and special school districts.

<sup>45</sup> Houk and Roberts 2019, DeFusco 2019a, and DeFusco 2019b.

<sup>46</sup> Senate Bill 1216 by Senator Crowe, House Bill 1352 by Representative Matthew Hill.

<sup>47</sup> Kennedy 2019.

<sup>48</sup> Tenn. Op. Att’y Gen. 13-107, (Dec. 20, 2013).

<sup>49</sup> Tennessee Code Annotated, Section 49-3-315(c).

<sup>50</sup> Interviews with Dan Eldridge, mayor of Washington County and Richard Venable, mayor of Sullivan County.

In fiscal year 2017-18, cities and special school districts in 28 multisystem counties with county school systems raised \$139.4 million for city school systems and special districts that they did not have to share.

In fiscal year 2017-18, cities and special school districts in 28 multisystem counties with county school systems<sup>51</sup> raised \$139.4 million for city school systems and special districts<sup>52</sup> that they did not have to share. This amounts to approximately \$1,237 per student. The 32 city systems in these counties received \$112.2 million in revenue that did not have to be shared—\$84.0 million in city general fund transfers, \$17.9 million in city property tax, and \$10.3 million in cities' share of local option sales tax revenue.<sup>53</sup> The five special school districts in these counties received \$27.2 million in special school district property tax revenue<sup>54</sup> that they didn't have to share.

As a result, 28 of 32 city school systems and all five special school districts in the multisystem counties received more local revenue per student than the county school system in their county for fiscal year 2017-18. City school systems and special school districts in these counties received \$1,193 more per student in local revenue than the county school system. The additional revenue that city school systems and special school districts have access to can be used to pay higher teacher salaries, build and maintain facilities, and provide additional programs, tutoring, and advanced classes, thus creating intra-county disparities in student services. It would take an additional \$413.3 million for those county school systems to equal the per-student revenue of the city and special school districts they contain.<sup>55</sup>

There is little difference between local revenue per student for county school systems in multisystem counties and single-system counties (\$4,222 and \$4,114, respectively).<sup>56</sup> But an analysis of intra-county disparity between all school systems, as shown on table 5, demonstrates that only four city school systems (Alamo, Bells, Dayton, and Lakeland) received less local revenue per student when compared with the county school system in the same county in fiscal year 2017-18. Crockett County's school system received more revenue per student than both Alamo's and Bell's city school systems (\$1,272, \$958, and \$1,139, respectively).<sup>57</sup> Rhea County school system received more revenue per student than Dayton's city school system (\$2,161 and \$1,771, respectively).<sup>58</sup> None of these city school systems have high schools. Shelby County Schools received more revenue per student than Lakeland's city school system (\$4,462 and \$4,126, respectively) but less than the other five city school systems in Shelby County (\$4,597 to \$5,676).<sup>59</sup>

<sup>51</sup> Excludes Gibson and Carroll counties. Gibson County does not have a county school system, and Carroll County's county school system is not comparable to other school systems.

<sup>52</sup> TACIR staff calculation based on data from the Tennessee Department of Education.

<sup>53</sup> Tennessee Department of Education "2017-18 Annual Statistical Report."

<sup>54</sup> Ibid.

<sup>55</sup> TACIR staff calculation based on data from the Tennessee Department of Education "2017-18 Annual Statistical Report."

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

All other county systems in counties with city school systems (20 of 23) received less revenue per student than each of the city school systems in the same county. Similarly, all five county school systems with special school districts received less local revenue than the special school district in the same county (see table 5).

**Table 5. Actual Local Revenue per Student by School Systems in Multi-system Counties, Fiscal Year 2017-18**

County System	Local	City System	Local
Anderson	\$4,036	Clinton	\$4,433
		Oak Ridge	\$7,420
		weighted averages	\$6,893
Blount	\$4,255	Alcoa	\$5,831
		Maryville	\$6,116
		weighted averages	\$6,038
Bradley	\$2,698	Cleveland	\$3,387
Carter	\$2,365	Elizabethton	\$3,509
Cocke	\$2,292	Newport	\$3,136
Coffee	\$3,391	Manchester	\$5,084
		Tullahoma	\$5,472
		weighted averages	\$5,361
Crockett	\$1,272	Alamo	\$958
		Bells	\$1,139
		weighted averages	\$1,032
Dyer	\$2,884	Dyersburg	\$3,582
Franklin	\$3,322	Tullahoma	\$5,472
Greene	\$2,482	Greeneville	\$5,420
Hawkins	\$2,665	Rogersville	\$3,230
		Kingsport	\$6,117
		weighted averages	\$3,230
Henderson	\$2,058	Lexington	\$2,977
Lincoln	\$2,372	Fayetteville	\$2,580
Loudon	\$4,316	Lenoir City	\$5,082
McMinn	\$2,207	Athens	\$3,906
		Etowah	\$2,488
		weighted averages	\$3,638
Monroe	\$2,019	Sweetwater	\$2,340
Obion	\$2,707	Union City	\$3,501
Rhea	\$2,161	Dayton	\$1,771
Roane	\$3,782	Oak Ridge	\$7,420
Rutherford	\$3,598	Murfreesboro	\$4,344
Shelby	\$4,462	Arlington	\$4,710
		Bartlett	\$4,674
		Collierville	\$4,713
		Germantown	\$5,676
		Lakeland	\$4,126
		Millington	\$4,597
		weighted averages	\$4,843

Twenty-eight of 32 city school systems and all five special school districts in the multisystem counties received more local revenue per student than the county school system in their county for fiscal year 2017-18.

**Table 5. Actual Local Revenue per Student by School Systems in Multi-system Counties, Fiscal Year 2017-18 (continued)**

County System	Local	City System	Local
Sullivan	\$4,326	Bristol	\$5,639
		Kingsport	\$6,117
weighted averages			\$5,950
Washington	\$3,691	Johnson City	\$5,852
County System	Local	SSD	Local
Henry	\$3,461	Paris	\$4,000
Marion	\$2,501	Richard City	\$2,824
Scott	\$1,329	Oneida	\$2,173
Williamson	\$8,342	Franklin SSD	\$11,887
Wilson	\$3,618	Lebanon	\$4,719

Source: TACIR staff calculations based on Tennessee Department of Education, 2018 Annual Statistical Reports.

Multisystem counties appear to be taking on more debt for education capital projects than would otherwise be necessary.

Because counties with multiple school systems are required to share bond proceeds with all school systems in the county in most circumstances, these counties appear to be taking on more debt for education capital projects than would otherwise be necessary. Overall school debt per student in the 141 school systems in Tennessee was more in fiscal year 2015-16 (\$6,049) than single-system counties and city school systems (\$5,653 and \$4,406, respectively), but less than county school systems in multisystem counties, which was second only to debt for special school districts (\$6,964 and \$8,213, respectively).<sup>60</sup> See appendix F for infrastructure needs and school debt per student in multisystem counties.

One possible explanation for why multisystem counties have more debt per student than single-system counties is that they issue debt to meet sharing requirements that would not have been issued otherwise. For instance, it’s possible that a city school system or special school district does not have any capital outlay needs when it receives its share of bond proceeds. Of the 37 city and special school districts in counties with a county school system, three (Manchester, Richard City, and Dayton) reported having no infrastructure needs in 2017 (see appendix F).<sup>61</sup> In the absence of any capital outlay need, the stated purpose of the bond when the bond was issued may be broad enough to allow city school systems and special school districts to use their share of bond proceeds for any non-recurring education expense—computers, for instance. State law permits school systems “to purchase property for school purposes, to purchase sites for school buildings, to erect or repair school buildings, to furnish and equip school buildings and to refund,” and [to] “call or make principal

<sup>60</sup> US Department of Education, National Center for Education Statistics, Common Core of Data (CCD), “Local Education Agency (School District) Universe Survey”; Tennessee Department of Education, Average Daily Membership (ADM).

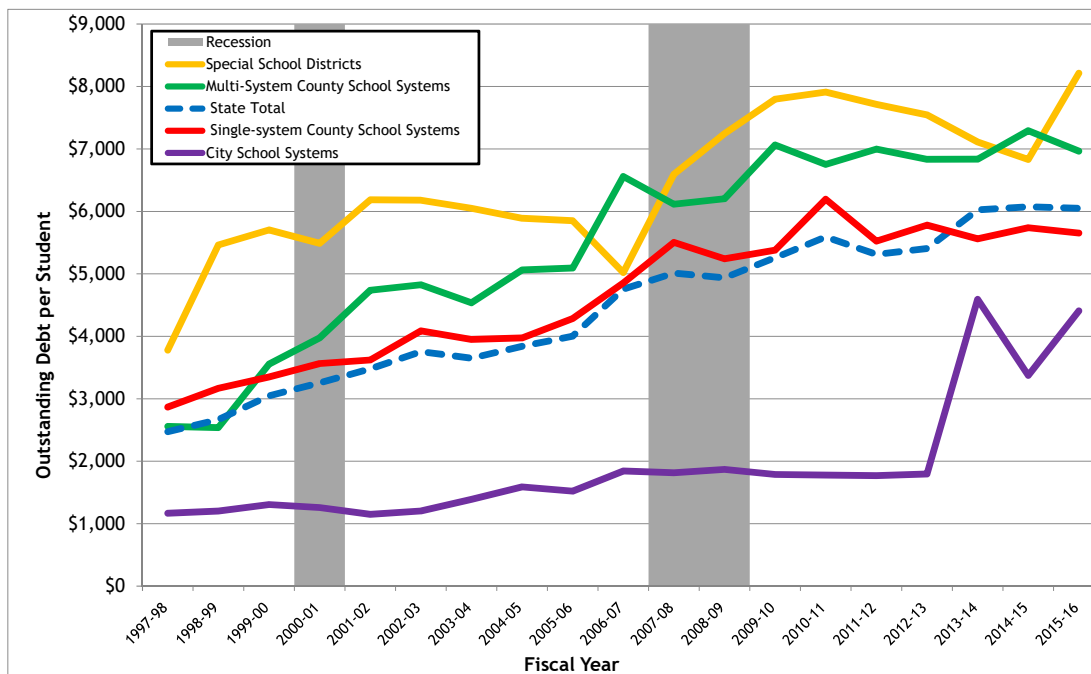
<sup>61</sup> Tennessee Advisory Commission on Intergovernmental Relations Public Infrastructure Needs Inventory.



and interest payments on bonds or other obligations previously issued for the same purposes.”<sup>62</sup> But it seems unlikely that short-lived personal property, like computers, would be financed using long term bonds if not for the sharing requirement. Bond proceeds that are not spent within five years of issue may need to be applied toward paying down the principal to avoid the bond losing its tax-exempt status.<sup>63</sup>

From 1997-98 to 2015-16 inflation-adjusted<sup>64</sup> outstanding debt per student increased 55.8% in county systems that are in multisystem counties but only 12.8% for county school systems in single-system counties.<sup>65</sup> Inflation-adjusted per-student debt peaked for county school systems in multisystem counties in 2009-10 at \$7,906 per student, and at \$6,717 per student in 2010-11 for county school systems in single-system counties and has since leveled off for both types of school systems.<sup>66</sup> Outstanding debt per student for cities increased when Memphis City Schools was absorbed by Shelby County School in 2013-14 but remains lower for other types of school systems at \$4,406 per student (see figure 1).<sup>67</sup>

**Figure 1. Long-term Debt per Student for Tennessee Public School Systems (2016 Dollars)**



Sources: US Department of Education, National Center for Education Statistics, Common Core of Data (CCD), "Local Education Agency (School District) Universe Survey"; Tennessee Department of Education, 2018 Annual Statistical Report, Average Daily Membership (ADM); Federal Reserve Bank of St. Louis, Government Consumption Price Index.

Note: Shelby County Schools absorbed Memphis City School System in fiscal year 2013-14. Carroll County Schools was excluded from the analysis because it is not comparable to other school systems in the state.

<sup>62</sup> Tennessee Code Annotated, Section 49-3-1004(a).

<sup>63</sup> IRS Publication 4079.

<sup>64</sup> Federal Reserve Bank of St. Louis, Government Consumption Price Index 2019.

<sup>65</sup> US Department of Education, National Center for Education Statistics 2019.

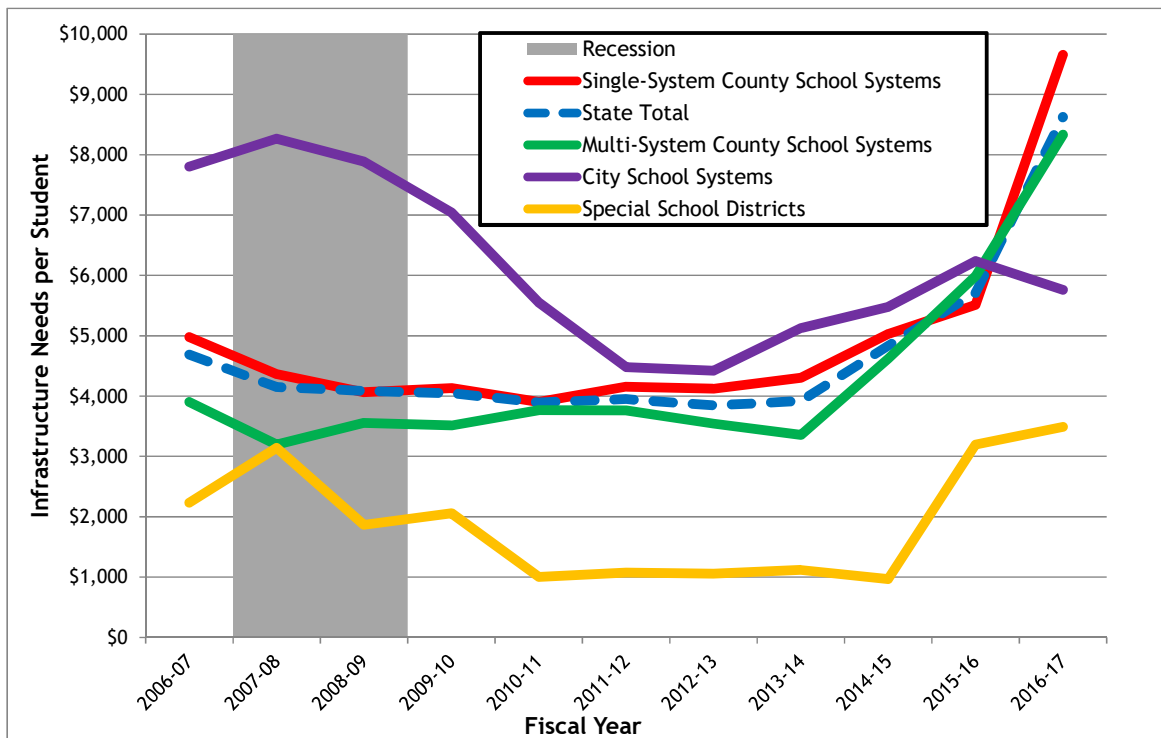
<sup>66</sup> Ibid.

<sup>67</sup> Zubrzycki 2013 and US Department of Education, National Center for Education Statistics 2019.



As enrollment increases or buildings in a school system age, issuing bonds often becomes necessary to meet infrastructure needs. As of July 1, 2017, counties with multiple school systems have \$8,583 per student in needed improvements while city systems have \$5,933 and special school districts have \$3,596.<sup>68</sup> In fact, 14 of the 28 multisystem counties have more needed infrastructure improvements than the city systems and special school districts within them. At the same time, counties with only a county school system have \$9,946 in per-student infrastructure needs (see figure 2).<sup>69</sup>

**Figure 2. Estimated Cost of Needed Infrastructure Improvements per Student for Tennessee Public Schools (2016 Dollars)**



Sources: Tennessee Advisory Commission on Intergovernmental Relations, Public Infrastructure Needs Inventory (PINI); Tennessee Department of Education, Average Daily Membership (ADM); Federal Reserve Bank of St. Louis, Government Consumption Price Index.

Note: Memphis enrollment data was combined with Shelby County so infrastructure data from the PINI could be analyzed over multiple years. Carroll County Schools was excluded from the analysis because it is not comparable to other school systems in the state.

As noted in the Commission’s companion report, *K-12 Public Education Funding and Services*, meeting local needs and the requirements imposed by the federal and state governments often requires more resources than Tennessee’s state funding formula provides. Given the ever evolving needs of communities in Tennessee and the likelihood that the BEP funding formula could better account for these needs, the Commission recommended in that report that a comprehensive review of the components be made by the BEP Review Committee or other designated state and local officials

<sup>68</sup> Tennessee Advisory Commission on Intergovernmental Relations Public Infrastructure Needs Inventory.

<sup>69</sup> Ibid.

and other stakeholders to ensure that the BEP funding formula supports a commonly accepted basic level of education for Tennessee students. At an October 2020 meeting of the Commission’s local government members, officials reiterated the need for a comprehensive review of the BEP funding formula. Because local tax bases vary markedly across the state, and because of complexities in the laws requiring those tax bases to be shared among school systems in the same county, local governments are unable to provide the resources necessary to meet local needs and federal and state requirements without imposing different tax rates. These challenges can lead to both student and taxpayer inequities.

### ***Ensuring Equity for Students and Taxpayers***

According to some county representatives, disparities that result from the state’s current education revenue-sharing requirements raise equity concerns. City officials raise similar concerns about achieving equity for students and taxpayers and face their own challenges because of the complexity of Tennessee’s local tax and governance structures and school finance system. State courts, including Tennessee’s highest court, have taken the position that equity for students necessitates neither equal funding nor sameness but rather equal opportunity.<sup>70</sup> Equality of opportunity has been a longstanding issue in education. As noted by the US Advisory Commission on Intergovernmental Relations in a 1975 report on education,

equality of educational opportunity is of critical importance in a democratic society dedicated to the proposition that all persons should have an equal chance to develop their potentialities to the fullest. This objective takes on particular urgency as technological advancement causes employment opportunities to become increasingly restricted to persons with professional and technical skills.<sup>71</sup>

That reasoning led to passage of the Education Improvement Act of 1992<sup>72</sup> and adoption of the Basic Education Program (BEP) funding formula. The formula is structured specifically to ensure “vertical” equity—treating different students differently—by providing additional funds for early-elementary and high school students, career and technical students, special education students, at-risk students, etc.<sup>73</sup> “Horizontal” equity—treating similar students similarly—is achieved by equalizing funding across school systems through a process that assumes local governments are imposing comparable tax rates and then using state funds to make up the difference

Equity for students necessitates neither equal funding nor sameness but rather equal opportunity.

<sup>70</sup> Tennessee Small School Systems v. McWherter, 851 S.W.2d 139 (Tenn. 1993).

<sup>71</sup> US Advisory Commission on Intergovernmental Relations 1975.

<sup>72</sup> Public Chapter 535, Acts of 1992.

<sup>73</sup> Roehrich-Patrick et al. 2016. See also Mankiw 2004.

Tennessee has several examples of taxpayer inequities, some of which favor cities and some of which favor counties.

in the amount of local education revenue those rates produce.<sup>74</sup> The state's education funding formula computes the amount each Tennessee school system needs to fund the defined BEP, determines the amount of education revenue each county can fairly be required to raise, and then makes up the difference with state funds. This process is described in the *BEP Handbook for Computation*<sup>75</sup> prepared by the Tennessee Department of Education. The *Blue Book*,<sup>76</sup> which details the major categories and components of the BEP, is produced by the State Board of Education and periodically evaluated by Commission staff in reports on student equity.<sup>77</sup>

Another longstanding point of discussion in education finance is that of taxpayer equity. In a 1999 report, the National Research Council, part of the non-profit National Academy of Sciences, said,

From a school finance perspective, a system would be judged fair to taxpayers if every taxpayer was assured that a given tax rate would translate into the same amount of spending per pupil regardless of where the taxpayer lived.<sup>78</sup>

To ensure that similarly situated taxpayers are treated similarly, the state imposes the same taxes on the same things regardless of location. To the extent that taxpayer equity is not achieved across local governments, residents control those decisions through the electoral process. They choose those who set tax rates and so can be said to have chosen whatever differences exist between localities. Of course, that's not the case with respect to nonresident taxpayers, but they at least have some ability to choose where they procure goods and services and thus have some control over the rates they pay and to whom they pay them.

If public school funds were raised solely from residential property taxes, the problem could be easily solved. Residents who pay those taxes would be funding their own schools wherever counties, cities, and special school districts operate K-12 systems. For cities or special school districts that do not operate K-12, something similar to the current structure for sharing county revenue for schools could be utilized to fund the grades that those cities or districts do not offer.

But that's not how public schools are funded. The challenge is devising a way to ensure that taxpayers derive similar benefit from the taxes they pay regardless of whether they live in or receive services from the taxing jurisdiction. Consequently, Tennessee has several examples of taxpayer inequities, some of which favor cities and some of which favor

<sup>74</sup> Ibid.

<sup>75</sup> Tennessee Department of Education 2018.

<sup>76</sup> Tennessee State Board of Education "2018-2019 BEP Blue Book."

<sup>77</sup> See, for instance, Roehrich-Patrick et al. 2016.

<sup>78</sup> Berne and Stiefel 1999.

counties. A county's ability to use countywide revenue in lieu of bonds to fund education capital expenditures without sharing<sup>79</sup> this revenue is one example of improved student equity at the expense of taxpayer equity. This is arguably unfair to taxpayers living in city school systems or special school districts, but it's one of only a few ways counties can address student equity under current law. Removing a county's sharing requirement for sales within the unincorporated part of the county would improve taxpayer equity by allowing counties to use all \$59.8 million<sup>80</sup> of that revenue (in fiscal year 2017-18) to fund county school systems, though it would still be far less than the \$413.3 million<sup>81</sup> needed to eliminate intra-county funding disparities.

### ***Replacing county-level fiscal capacity with system-level fiscal capacity in the state's Basic Education Program funding formula would reduce intra-county disparities***

The Basic Education Program (BEP) funding formula was adopted by the Tennessee General Assembly as a key part of the Education Improvement Act of 1992 (EIA).<sup>82</sup> The primary purpose of the new funding formula, which was phased in between 1992-93 and 1997-98, was to improve equity within education spending.<sup>83</sup> That purpose was achieved when it comes to inter-county disparities but not intra-county disparities because of the BEP's use of county-level fiscal capacity models instead of a system-level model.<sup>84</sup> Efforts to produce a system-level model to equalize Tennessee's formula for funding public schools began in the early 1990s.<sup>85</sup> Unfortunately, those early efforts were hampered by a lack of data. Improvements in state and federal data collection and reporting systems, however, have made a system-level model possible.<sup>86</sup>

### **County-Level Fiscal Capacity: Intra-County Disparities Remain**

Fiscal capacity is the ability of local governments to raise revenue for education from local sources relative to other local governments. The state uses two capacity models to equalize state education funding through the Basic Education Program (BEP) funding formula.<sup>87</sup> Starting in school year 2007-08, a tax capacity model produced by the Center for Business and Economic Research (CBER) at the University of Tennessee has been

Removing a county's sharing requirement for sales within the unincorporated part of the county would improve taxpayer equity by allowing counties to use all \$59.8 million of that revenue (in fiscal year 2017-18) to fund county school systems.

<sup>79</sup> City of Athens Board of Education v. McMinn County, 467 S.W.3d 458 (Tenn. Ct. App. 2014). See also Tennessee Code Annotated, Section 49-3-1005(b).

<sup>80</sup> TACIR staff calculation based on data from the Tennessee Department of Revenue.

<sup>81</sup> TACIR staff calculation based on data from the Tennessee Department of Education "2017-18 Annual Statistical Report."

<sup>82</sup> Public Chapter 535, Acts of 1992.

<sup>83</sup> Roehrich-Patrick et al. 2016.

<sup>84</sup> Ibid.

<sup>85</sup> Green and Roehrich-Patrick 2006.

<sup>86</sup> Ibid.

<sup>87</sup> Tennessee Code Annotated, Section 49-3-307(a)(10).

used in combination with the county-level fiscal capacity model produced by TACIR and used since the inception of the BEP funding formula in 1992-93.<sup>88</sup> Both models are calculated at the county level and don't take into account several factors that drive intra-county disparities, most particularly a counties' relative lack of access to unshared tax bases and the concentration of commercial and industrial tax bases within cities, both of which leave counties with less ability to raise local revenue for county school systems when compared with city school systems and special school districts in the same county.

According to a 2003 comptroller report, the use of a county fiscal capacity model in a system-level funding formula results in "funding inequalities among [school systems] within multi-[school system] counties."<sup>89</sup> Calculating fiscal capacity at the county level instead of at the system level, to equalize state education funding, does not effectively reduce funding gaps within counties because county-level fiscal capacity models treat all school systems within multisystem counties as if they have the same ability to raise revenue for education from local sources. The result is that BEP revenue decreases these funding gaps in 17 counties but actually increases gaps in 11 counties (see table 6), and the amount that counties would need

**Table 6. Actual Local Basic Education Program Revenue per Student by School Systems in Multi-system Counties, Fiscal Year 2017-18**

County System	BEP	Local	BEP + Local	City System	BEP	Local	BEP + Local
Anderson	\$5,046	\$4,036	\$9,081	Clinton	\$5,056	\$4,433	\$9,489
				Oak Ridge	\$4,871	\$7,420	\$12,291
weighted averages					\$4,904	\$6,893	\$11,797
Blount	\$4,493	\$4,255	\$8,748	Alcoa	\$4,311	\$5,831	\$10,142
				Maryville	\$4,155	\$6,116	\$10,271
weighted averages					\$4,197	\$6,038	\$10,236
Bradley	\$4,835	\$2,698	\$7,533	Cleveland	\$5,036	\$3,387	\$8,423
Carter	\$6,094	\$2,365	\$8,459	Elizabethton	\$5,450	\$3,509	\$8,959
Cocke	\$5,532	\$2,292	\$7,824	Newport	\$5,414	\$3,136	\$8,550
Coffee	\$5,043	\$3,391	\$8,434	Manchester	\$5,399	\$5,084	\$10,483
				Tullahoma	\$4,839	\$5,472	\$10,311
weighted averages					\$4,999	\$5,361	\$10,360
Crockett	\$6,277	\$1,272	\$7,549	Alamo	\$7,211	\$958	\$8,168
				Bells	\$6,572	\$1,139	\$7,711
weighted averages					\$6,948	\$1,032	\$7,981
Dyer	\$5,258	\$2,884	\$8,142	Dyersburg	\$5,376	\$3,582	\$8,958
Franklin	\$5,127	\$3,322	\$8,449	Tullahoma	\$4,839	\$5,472	\$10,311
Greene	\$5,292	\$2,482	\$7,775	Greeneville	\$5,174	\$5,420	\$10,594
Hawkins	\$5,614	\$2,665	\$8,279	Rogersville	\$5,499	\$3,230	\$8,729
				Kingsport	\$4,031	\$6,117	\$10,148

<sup>88</sup> Public Chapter 535, Acts of 1992 and Public Chapter 369, Acts of 2007.

<sup>89</sup> Tennessee Comptroller of the Treasury 2003.

**Table 6. Actual Local Basic Education Program Revenue per Student by School Systems in Multi-system Counties, Fiscal Year 2017-18 (continued)**

weighted averages					\$5,499	\$3,230	\$8,729
Henderson	\$5,770	\$2,058	\$7,828	Lexington	\$5,944	\$2,977	\$8,921
Lincoln	\$5,536	\$2,372	\$7,907	Fayetteville	\$5,508	\$2,580	\$8,087
Loudon	\$4,471	\$4,316	\$8,786	Lenoir City	\$4,467	\$5,082	\$9,549
McMinn	\$4,851	\$2,207	\$7,058	Athens	\$4,911	\$3,906	\$8,817
				Etowah	\$5,127	\$2,488	\$7,615
weighted averages					\$4,952	\$3,638	\$8,590
Monroe	\$5,440	\$2,019	\$7,460	Sweetwater	\$5,603	\$2,340	\$7,943
Obion	\$5,482	\$2,707	\$8,189	Union City	\$5,139	\$3,501	\$8,640
Rhea	\$5,573	\$2,161	\$7,733	Dayton	\$5,487	\$1,771	\$7,259
Roane	\$4,749	\$3,782	\$8,532	Oak Ridge	\$4,871	\$7,420	\$12,291
Rutherford	\$4,714	\$3,598	\$8,312	Murfreesboro	\$5,088	\$4,344	\$9,432
Shelby	\$5,049	\$4,462	\$9,512	Arlington	\$4,557	\$4,710	\$9,267
				Bartlett	\$4,618	\$4,674	\$9,292
				Collierville	\$4,613	\$4,713	\$9,326
				Germantown	\$4,504	\$5,676	\$10,179
				Lakeland	\$4,660	\$4,126	\$8,786
				Millington	\$5,206	\$4,597	\$9,803
weighted averages					\$4,634	\$4,843	\$9,477
Sullivan	\$4,205	\$4,326	\$8,531	Bristol	\$3,994	\$5,639	\$9,632
				Kingsport	\$4,031	\$6,117	\$10,148
weighted averages					\$4,018	\$5,950	\$9,968
Washington	\$ 4,066	\$ 3,691	\$7,757	Johnson City	\$4,016	\$5,852	\$9,868
<b>County System</b>	<b>BEP</b>	<b>Local</b>	<b>BEP + Local</b>	<b>SSD</b>	<b>BEP</b>	<b>Local</b>	<b>BEP + Local</b>
Henry	\$5,333	\$3,461	\$8,794	Paris	\$5,211	\$4,000	\$9,211
Marion	\$5,075	\$2,501	\$7,576	Richard City	\$5,693	\$2,824	\$8,517
Scott	\$6,055	\$1,329	\$7,384	Oneida	\$5,967	\$2,173	\$8,140
Williamson	\$3,408	\$8,342	\$11,750	Franklin SSD	\$4,149	\$11,887	\$16,036
Wilson	\$4,373	\$3,618	\$7,991	Lebanon	\$4,681	\$4,719	\$9,400

Source: TACIR staff calculations based on Tennessee Department of Education, 2018 Annual Statistical Report.

to overcome the disparity in revenue actually increases slightly when BEP revenue is included, going from \$413.3 million to \$414.3 million.<sup>90</sup>

### System-Level Fiscal Capacity: Intra-County Disparities Reduced

Although other changes to state law could decrease some of the disparities for students, transitioning from calculating fiscal capacity at the county level to calculating it at the system level can decrease nearly all of these disparities while adhering to principles of taxpayer equity. A prototype system-level fiscal capacity model was developed by TACIR and Tennessee Comptroller of the Treasury staff in 2004 and reviewed by outside experts at Middle Tennessee State University, Tennessee State University, and

<sup>90</sup> TACIR staff calculation based on Tennessee Department of Education, Annual Statistical Report, fiscal year 2017-18.



Calculating fiscal capacity at the system level instead of the county level, in order to equalize state education funding, effectively reduces funding gaps within counties.

Vanderbilt University.<sup>91</sup> The prototype model was developed following a 2003 recommendation by then-Governor Bredesen’s Task Force on Teacher Pay that the state adopt a system-level fiscal capacity model to provide a fairer method of determining local contribution.<sup>92</sup> In 2004, the General Assembly asked the BEP Review Committee to give special consideration to “the development and implementation of a system-level fiscal capacity model.”<sup>93</sup> The committee endorsed the concept and voted to recommend in its November 2005 report that the county-level model be replaced with a system-level model.<sup>94</sup> Instead, the General Assembly passed Public Chapter 369, Acts of 2007, which, along with other changes to the BEP, included a second county-level fiscal capacity model (the CBER model).<sup>95</sup> A system-level fiscal capacity model would account for intra-county differences, making it possible to see how fiscal capacity per student varies by type of school system (see table 7).

**Table 7. System-level Fiscal Capacity per Student by School System Type, Fiscal Year 2017-18**

School System Type	System-level Fiscal Capacity per Student*
City school systems	\$4,272
Counties systems in single-system counties	\$3,723
Special school districts	\$3,691
County systems in multi-system counties	\$3,228
<b>State-wide average</b>	<b>\$3,605</b>

Source: TACIR staff calculations using the 2004 prototype system-level model with updated data.

\*Average Daily Membership.

Calculating fiscal capacity at the system level instead of the county level, in order to equalize state education funding, effectively reduces funding gaps within counties because system-level fiscal capacity models treat all school systems within multisystem counties as if they have different abilities to raise revenue for education from local sources by assigning them different state-share and local-share percentages. With a system-level fiscal capacity model, the state-share percentages for school systems in the same county would be different—for instance, 73.61% for Anderson County Schools, 53.68% for Clinton City School District, and 58.10% for Oak Ridge Schools. But with county-level fiscal capacity, the actual state-share percentage in the BEP for Anderson County Schools, Clinton City School District, and Oak Ridge Schools is exactly the same for each school system in the county (73.38% for fiscal year 2017-18).

<sup>91</sup> Tennessee Advisory Commission on Intergovernmental Relations 2006.

<sup>92</sup> Green and Roehrich-Patrick 2005.

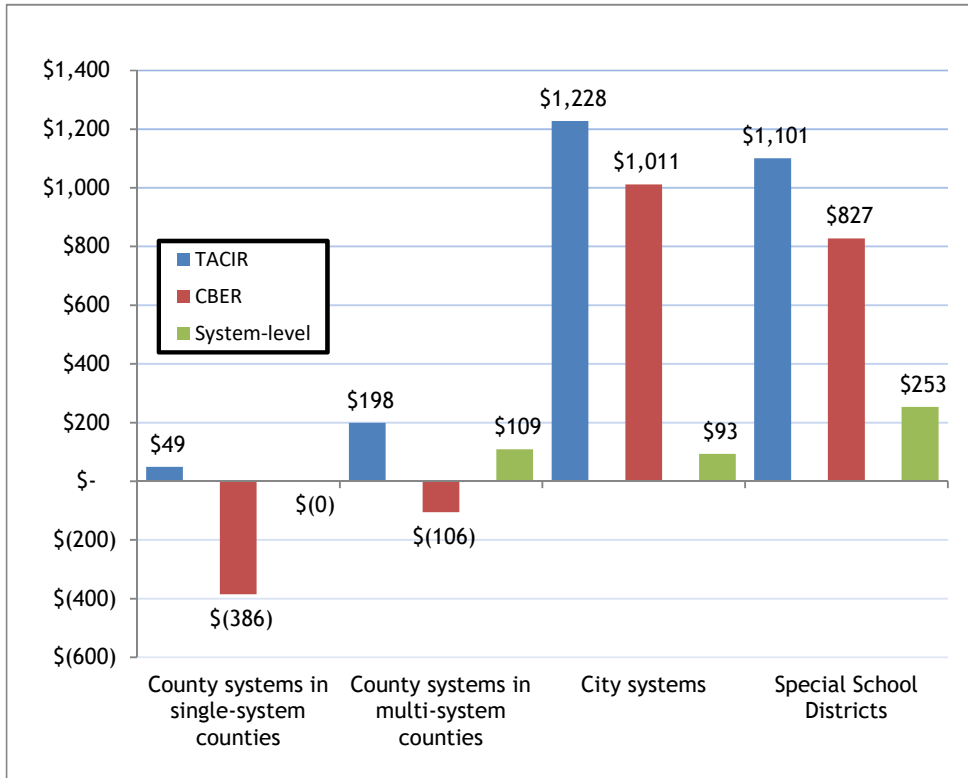
<sup>93</sup> Public Chapter 670, Acts of 2004.

<sup>94</sup> Basic Education Program Review Committee 2005.

<sup>95</sup> Public Chapter 369, Acts of 2007.

Because county-level fiscal capacity models are not designed to account for additional revenue (that cities and special school districts are able to—and actually do<sup>96</sup>—raise), fiscal capacity per student in both the TACIR and CBER models are, on average, lower than actual revenue per student for city school systems and special school districts. The models are closer to actual revenue per student for county school systems. Statewide, actual revenue per student is higher than fiscal capacity per student, and many jurisdictions choose to put more revenue into education than required. The prototype system-level fiscal capacity model, developed in 2004 but updated with current data for the purposes of this report, assigns fiscal capacities to city school systems and special school districts that are much closer, on average, to their actual local revenue per student (see figure 3). See appendix G for estimated BEP state share fund for each school system using the prototype model.

**Figure 3. Actual Local Revenue per Student Less Fiscal Capacity per Student by System Type, Fiscal Year 2017-18**



Sources: Tennessee Advisory Commission on Intergovernmental Relations; Tennessee Department of Education; Tennessee Department of Revenue; University of Tennessee, Boyd Center for Business and Economic Research.

As mentioned earlier, adding BEP revenue to local revenue actually increases—from \$413.3 million to \$414.3 million—the amount needed for the 26 of 28 county school systems that received less revenue per student to equalize the revenue. The two counties with greater revenue

<sup>96</sup> See table 5 on page 26.



per student (Crockett and Rhea) would have to reduce their revenue by \$5.9 million to equalize for a net disparity of \$408.3 million. If the two county-level models currently in use were replaced with the prototype system-level model,<sup>97</sup> the net disparity decreases to \$35.4 million, a 91.3% decrease. For estimates of the resulting local and BEP revenue per student for multisystem counties, see table 8.

**Table 8. System-level Fiscal Capacity Local and Basic Education Program Revenue per Student\* by School Systems in Multi-system Counties,\*\* Fiscal Year 2017-18**

County System	BEP	Local	BEP + Local	City System	BEP	Local	BEP + Local
Anderson	\$5,288	\$4,036	\$9,324	Clinton	\$3,820	\$4,433	\$8,254
				Oak Ridge	\$4,012	\$7,420	\$11,433
weighted averages					\$3,929	\$6,893	\$10,822
Blount	\$4,555	\$4,255	\$8,810	Alcoa	\$3,265	\$5,831	\$9,096
				Maryville	\$3,285	\$6,116	\$9,401
weighted averages					\$3,222	\$6,038	\$9,261
Bradley	\$5,037	\$2,698	\$7,736	Cleveland	\$4,212	\$3,387	\$7,599
Carter	\$6,113	\$2,365	\$8,477	Elizabethton	\$5,062	\$3,509	\$8,571
Cocke	\$5,794	\$2,292	\$8,086	Newport	\$4,724	\$3,136	\$7,860
Coffee	\$5,218	\$3,391	\$8,609	Manchester	\$4,867	\$5,084	\$9,951
				Tullahoma	\$4,069	\$5,472	\$9,541
weighted averages					\$4,309	\$5,361	\$9,670
Crockett	\$6,492	\$1,272	\$7,764	Alamo	\$6,682	\$958	\$7,640
				Bells	\$6,463	\$1,139	\$7,602
weighted averages					\$6,847	\$1,032	\$7,880
Dyer	\$5,353	\$2,884	\$8,237	Dyersburg	\$4,603	\$3,582	\$8,185
Franklin	\$5,149	\$3,322	\$8,470	Tullahoma	\$4,069	\$5,472	\$9,541
Greene	\$5,428	\$2,482	\$7,911	Greeneville	\$4,704	\$5,420	\$10,124
Hawkins	\$5,757	\$2,665	\$8,422	Rogersville	\$4,938	\$3,230	\$8,168
				Kingsport	\$3,251	\$6,117	\$9,368
weighted averages					\$5,028	\$3,230	\$8,257
Henderson	\$5,779	\$2,058	\$7,837	Lexington	\$4,728	\$2,977	\$7,704
Lincoln	\$5,691	\$2,372	\$8,062	Fayetteville	\$5,132	\$2,580	\$7,712
Loudon	\$4,290	\$4,316	\$8,605	Lenoir City	\$4,237	\$5,082	\$9,319
McMinn	\$4,997	\$2,207	\$7,205	Athens	\$4,116	\$3,906	\$8,022
				Etowah	\$4,766	\$2,656	\$7,421
weighted averages					\$4,123	\$3,638	\$7,762

<sup>97</sup> TACIR staff calculations used a one-tier regression-based fiscal capacity model, but other system-level fiscal capacity models are possible. Two-tier models have a county model as tier one while a second tier divides the results of the county model among the systems within multi-system counties. Average tax rates could also be used instead of regression-based weights.

**Table 8. System-level Fiscal Capacity Local and Basic Education Program Revenue per Student\* by School Systems in Multi-system Counties,\*\* Fiscal Year 2017-18 (continued)**

County System	BEP	Local	BEP + Local	City System	BEP	Local	BEP + Local
Monroe	\$5,430	\$2,019	\$7,450	Sweetwater	\$5,224	\$2,340	\$7,564
Obion	\$5,396	\$2,707	\$8,103	Union City	\$4,686	\$3,501	\$8,187
Rhea	\$5,765	\$2,161	\$7,925	Dayton	\$4,824	\$2,226	\$7,049
Roane	\$4,985	\$3,782	\$8,767	Oak Ridge	\$4,012	\$7,420	\$11,433
Rutherford	\$4,437	\$3,598	\$8,034	Murfreesboro	\$3,495	\$4,344	\$7,839
Shelby	\$5,475	\$4,462	\$9,937	Arlington	\$4,001	\$4,710	\$8,711
				Bartlett	\$4,058	\$4,674	\$8,732
				Collierville	\$3,857	\$4,713	\$8,570
				Germantown	\$3,544	\$5,676	\$9,219
				Lakeland	\$4,413	\$4,126	\$8,540
				Millington	\$4,914	\$4,597	\$9,510
weighted averages					\$3,890	\$4,843	\$8,733
Sullivan	\$4,483	\$4,326	\$8,809	Bristol	\$3,453	\$5,639	\$9,092
				Kingsport	\$3,251	\$6,117	\$9,368
weighted averages					\$3,346	\$5,950	\$9,296
Washington	\$4,356	\$3,691	\$8,047	Johnson City	\$3,079	\$5,852	\$8,931
County System	BEP	Local	BEP + Local	SSD	BEP	Local	BEP + Local
Henry	\$5,384	\$3,461	\$8,845	Paris	\$4,893	\$4,000	\$8,894
Marion	\$5,147	\$2,501	\$7,648	Richard City	\$5,150	\$2,824	\$7,975
Scott	\$6,290	\$1,329	\$7,619	Oneida	\$5,897	\$2,173	\$8,070
Williamson	\$2,978	\$8,342	\$11,320	Franklin SSD	\$2,454	\$11,887	\$14,341
Wilson	\$4,161	\$3,618	\$7,779	Lebanon	\$3,525	\$4,719	\$8,244

Source: TACIR staff calculations based on Tennessee Department of Education, 2018 Annual Statistical Report.

\*Average Daily Membership.

\*\*Excluding Carroll and Gibson counties. Carroll County has five special school districts. Carroll County Schools is a countywide school system that provides a technical training center, a special learning center, an alternative school, and transportation services to all public school systems in the county. Gibson County has no county school system, one city school system, and four special school districts.

### ***Tennessee's unique local funding structure and a relative lack of independent taxing authority make comparisons with other states difficult***

In other states, school systems are usually fiscally independent, meaning they can levy their own taxes without sharing the revenue. But independent school systems are relatively rare in Tennessee,<sup>98</sup> and unlike many independent school systems in other states, Tennessee's special school districts also receive significant local revenue from counties, making comparisons difficult.<sup>99</sup> In fact, no other state has the variety of school system types in combination with the complex fiscal powers and interrelationships among school systems that exist in Tennessee.<sup>100</sup>

<sup>98</sup> US Census Bureau 2019a

<sup>99</sup> Green and Roehrich-Patrick 2005.

<sup>100</sup> Ibid.

County and city school systems, which make up 127 of the 141 school systems in Tennessee (90%), have no taxing authority and are dependent on local governments for tax revenue. The 14 other school systems are special school districts, which levy a property tax within their boundaries as authorized by the General Assembly through private acts (see table 9).

**Table 9. Types of School Systems in Tennessee**

School System Type	Number	Ind./Dep.*
County	94	Dependent
Municipal	33	Dependent
Special School District	14	Independent

Sources: Tennessee Department of Education, 2018 Annual Statistical Report; US Census Bureau, 2019 Census of Governments.  
 \*Independent school systems have their own taxing authority.

Eliminating overlapping tax bases among school systems and giving them equal authority to raise revenue could reduce intra-county disparities—that is, make each school system independent. The US Census Bureau, in its periodic Census of Governments, classifies public school systems as either dependent school districts, which are agencies of other state or local government entities, or independent school districts, which are fiscally and administratively independent of other government entities. Of the 14,059 school districts in the United States, 12,754 (91%) have independent taxing authority.<sup>101</sup> See table 10 and figure 4.

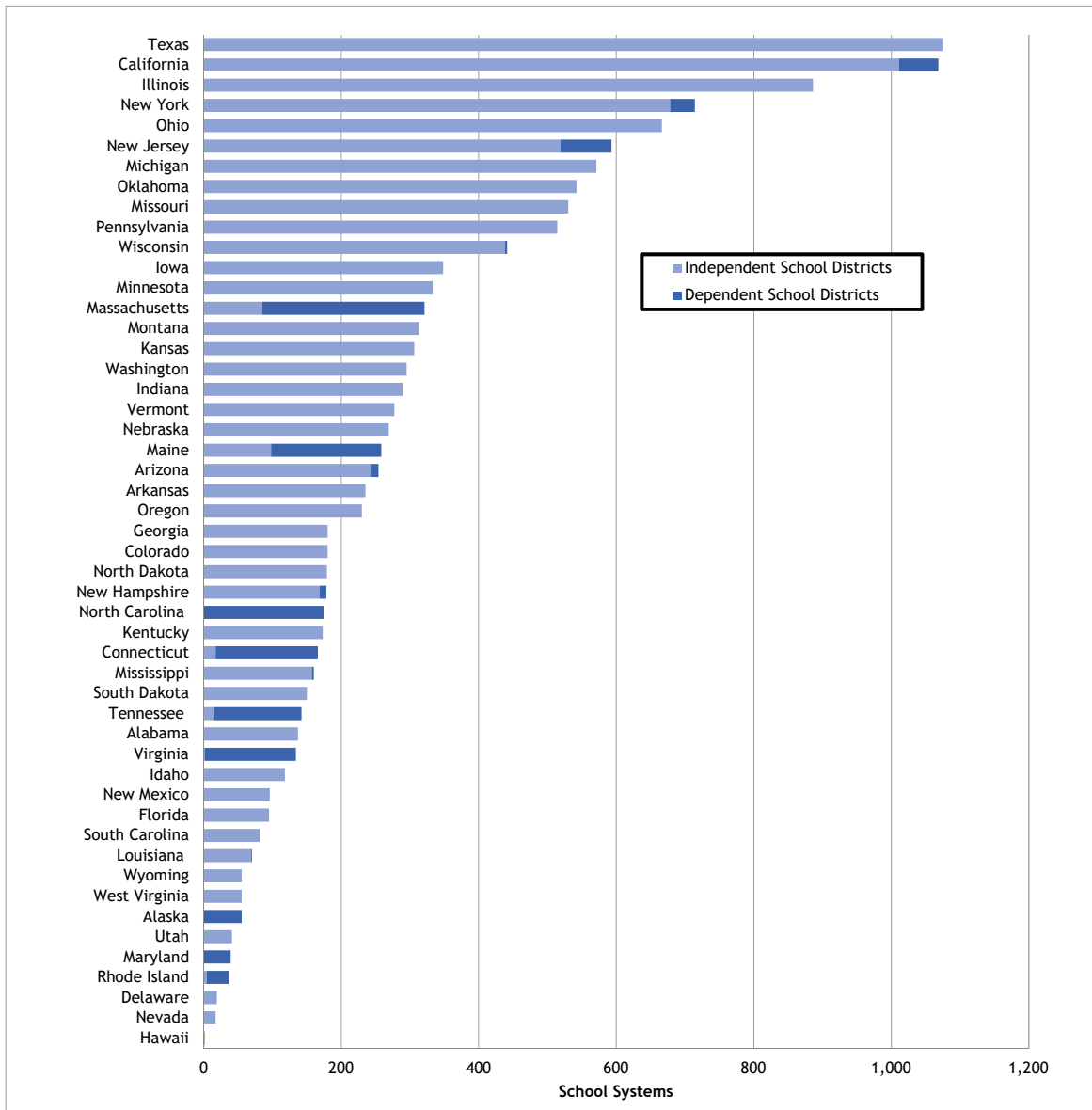
**Table 10. Indicators of School System Fiscal and Administrative Independence**

School System Powers Indicative of Fiscal Independence	School System Characteristics Indicative of Administrative Independence
<ul style="list-style-type: none"> <li>• Determines its budget without review and detailed modification by other local officials or governments</li> <li>• Determines taxes to be levied for its support</li> <li>• Fixes and collects charges for services</li> <li>• Issues debt without review by another local government</li> </ul>	<ul style="list-style-type: none"> <li>• A popularly elected governing body</li> <li>• A governing body representing two or more state or local governments</li> <li>• Performs functions that are essentially different from those of its creating government even if its governing body is appointed</li> </ul>

Source: US Census Bureau 2019b.

<sup>101</sup> US Census Bureau 2019a.

**Figure 4. Number of Independent and Dependent School Systems by US State, 2017**



Source: US Census Bureau, 2019 Census of Governments.

Note: The Census of Governments indicates that Louisiana, Mississippi, Texas, and Wisconsin have at least one dependent school system. However, closer inspection reveals that almost all K-12 public education in these states is provided by independent school districts, all with similar taxing authority. And while the federal data indicates that Alabama has only independent school districts, closer review shows that many of those school districts were created by cities and counties and are fiscally dependent on them.

Stakeholders say it can be challenging for school boards of dependent school systems to meet state standards without the ability to control funding.<sup>102</sup> Giving county and city school boards taxing authority—making them fiscally independent—would provide school systems with greater autonomy in the budgeting process, but it would also represent a fundamental change in the operation of most school systems in the

<sup>102</sup> Telephone Interview with David Huss, April 30, 2019.

Neither the legislature nor the courts have provided guidance for the transfer of existing county school facilities to newly formed school systems.

state. The last time a special school district was formed in Tennessee was in Gibson County in 1981<sup>103</sup>; forming new special school districts was prohibited in 1982.<sup>104</sup>

### ***Transfer of School Facilities to New City School Systems***

Although Tennessee law establishes rules for the transfer of school facilities and related debt when school systems are disbanded and when cities with school systems annex areas with schools, neither the legislature nor the courts have provided guidance for the transfer of existing county school facilities to newly formed school systems. In fact, state law prohibits creation of new special school districts and, from 1998 to 2013, prohibited the formation of new city school systems.<sup>105</sup> A law partially repealing the prohibition of new city systems was passed in 2011<sup>106</sup> shortly after Memphis residents voted to disband their special school district, effectively merging it with the Shelby County school system. This merger, which became effective in 2013, was the largest school-district consolidation in American history<sup>107</sup> and involved litigation that sought, among other things, to prevent the establishment of any new school systems within the county.<sup>108</sup> The case was filed in federal district court because it included federal due process and equal protection claims related to the disbanding of Memphis's special school district.<sup>109</sup>

### **Six New City Systems in Shelby County**

Residents of six Shelby County cities voted shortly after the merger of the Memphis and Shelby County school systems to form their own school systems and intervened in the merger lawsuit to establish both their right to form new systems and their right to the school facilities within their borders.<sup>110</sup> Although state law requires city school systems to “[p]rovide school plant facilities which shall meet the minimum requirements and standards of the State Board of Education,”<sup>111</sup> no statute, rule, or case law directly addresses whether newly formed city school systems are entitled to existing school facilities in their districts, or if so, whether or how much the city must pay for those facilities.

<sup>103</sup> Private Acts of 1981, Chapter 62.

<sup>104</sup> Public Chapter 907, Acts of 1982.

<sup>105</sup> Public Chapter 1101, Acts of 1998 and Public Chapter 256, Acts of 2013.

<sup>106</sup> Public Chapter 1, Acts of 2011. Enabling legislation for that law, Public Chapter 905, 2012, was held unconstitutional because it only applied to Shelby County and did not include a provision for local approval.

<sup>107</sup> Center on Reinventing Public Education 2014.

<sup>108</sup> Board of Education of Shelby County v. Memphis City Board of Education, Third-Party Complaint for Declaratory Judgment, 2012 U.S. Dist. (W.D. Tenn. June 26, 2012).

<sup>109</sup> Board of Education of Shelby County v. Memphis City Board of Education, No. 11-2101, 2011 U.S. Dist. LEXIS 87803 (W.D. Tenn. Aug. 8, 2011).

<sup>110</sup> Board of Education of Shelby County v. Memphis City Board of Education, 911 F. Supp. 2d 631 (W.D. Tenn. Nov. 27, 2012).

<sup>111</sup> Rules and Regulations of the State of Tennessee, Section 0520-1-8-.01.

For various reasons, the merger lawsuit ended in a number of settlement agreements that included the transfer of existing school facilities from the county school system to the new city systems. Those agreements did not establish a value for the transferred facilities or even that the cities had a right to them, nor did they explicitly involve payment for them. Instead, the cities agreed to make payments for other specified purposes. For example, the Bartlett Board of Education agreed to pay \$608,193 per year for 12 years to the Shelby County Board of Education to reduce the county board’s retiree health and life insurance liabilities.<sup>112</sup> The district court approved the agreements and dismissed the lawsuit, noting that the agreements reflected “a consensus among the parties on ‘the best way to resolve [the] complex institutional reform’ at issue.”<sup>113</sup> Because the parties agreed to settle the lawsuit rather than having the issues resolved by a court judgement, the agreements do not establish precedent for future, similar cases and leave unanswered the questions of whether newly formed city school systems are entitled to existing school facilities in their districts, and if so, whether or how much the city should pay for them.<sup>114</sup> However, the agreements may provide guidance for establishing requirements and methods for the transfer of property to a new school system.

### Signal Mountain and Brentwood

Only two cities—Signal Mountain in Hamilton County and Brentwood in Williamson County—have taken official action to consider forming a city school system since the six city school systems formed in Shelby County in 2014-15. The lack of a state law providing for the transfer of school property to new school systems remains an issue for cities considering forming new school systems. Brentwood’s city council discussed commissioning a feasibility study focused on forming a city school system, but the city council rejected the feasibility study on a 3-3 vote.<sup>115</sup> Even after conducting the feasibility study, uncertainty would have remained on how the new city school system would acquire school properties from Williamson County Schools. In February 2017, the Signal Mountain Town Council appointed a committee to study the viability of forming a new city-school system. One of the obstacles they identified was the reluctance of Hamilton County Schools to transfer the school buildings in Signal Mountain to the new school system:

The attorney representing [Hamilton County Schools] wrote to the attorney who represents the Town of Signal Mountain in an email stating: “If the County Board [of Education] no longer needed these schools because the

The lack of a state law providing for the transfer of school property to new school systems remains an issue for cities considering forming a new school system.

<sup>112</sup> Agreement of Compromise and Settlement 2014.

<sup>113</sup> Board of Education of Shelby County v. Memphis City Board of Education. Order on Joint Motion for Dismissal with Prejudice. 2014 U.S. Dist. (W.D. Tenn. March 10, 2014).

<sup>114</sup> Lederman 1999.

<sup>115</sup> City of Brentwood 2018.

students residing within the town limits were going to their own district, then the board could sell these properties or reallocate them as it saw fit,” thereby implying that if a municipal school district should be created, [Hamilton County Schools] would refuse to cede the use of the three school buildings to the new district. Obviously, without those buildings a new school district would not be able to function.<sup>116</sup>

The Hamilton County school board voted 7-1 for a resolution pledging that it would not sell or transfer ownership of its school buildings in Signal Mountain.<sup>117</sup>

### **Tennessee Law Governing Transfers of School Facilities Upon Annexation**

Although Tennessee law does not directly address the transfer of school facilities to newly formed city systems, in 1898 the Tennessee Supreme Court addressed the transfer of school facilities following municipal annexation. In *Prescott v. Town of Lennox*, the Court held that the newly formed Town of Lennox was entitled to the school in question based on the public trust doctrine: “the title to such property is only held in trust for the public, and . . . by the change of municipal conditions the [beneficiary] has become that public constituting the new corporation of Lennox.”<sup>118</sup> The court explained its holding by quoting a New Jersey case for the principle that, “Municipal corporations are called into being in the interest of the public, and, in order that they may better serve their purpose, they have the right to create and control all the agencies and appliances essential to the health, safety, and convenience of the communities constituting them.”<sup>119</sup>

Current Tennessee annexation statutes require an annexing municipality and any affected entity, such as a school system, to reach an agreement “for allocation and conveyance to the annexing municipality of any or all public functions, rights, duties, property, assets and liabilities” of the entity.<sup>120</sup> Matters the parties cannot agree upon must be settled by arbitration.<sup>121</sup>

### **Tennessee Law Governing Transfers of School Facilities when Systems are Disbanded**

Tennessee courts and the legislature have also addressed the issue of transferring school facilities following a disbanding and consolidation

<sup>116</sup> Signal Mountain School System Viability Committee 2017.

<sup>117</sup> Hughes 2017.

<sup>118</sup> *Prescott v. Lennox*, 100 Tenn. 591, 47 S.W. 181 (1898).

<sup>119</sup> *Inhabitants of Bloomfield v. Mayers, etc.*, 33 Atl. Rep., 926, (New Jersey, 1896).

<sup>120</sup> Tennessee Code Annotated, Section 6-51-111(a). See also *Hamilton County v. Chattanooga*, 310 S.W.2d 153 (Tenn. 1958).

<sup>121</sup> Tennessee Code Annotated, Section 6-51-111(b).



of school systems. As is the case with Tennessee annexation laws, the laws governing school system consolidations may provide some initial guidance for a future case involving a new city school system, but it is unclear whether a court would apply this body of law or how it would do so. In a case involving a city that owned most of the school facilities of a city school system that disbanded, the Tennessee Court of Appeals held that the county board of education became the owner of the city school board's property rights.<sup>122</sup> However, the court also held that "legal title held by the city will remain in the city subject to the right of the [county board] to continue to use the property for such school purposes, reserving to the city the right of reversion upon the termination of such use."<sup>123</sup>

Tennessee statutes authorize the creation of planning commissions to "study and consider the need for and problems in conjunction with the consolidation of all public schools within the county into a unified school system and to make and file a written report."<sup>124</sup> The law further authorizes planning commissions to prepare a consolidation plan, and by so doing requires a commission to consider and provide for the following:

- an administrative organization of the proposed consolidated system;
- a method to ensure no diminution in the level of the educational service in the schools in any of the systems involved;
- an appropriate means for the transfer of assets and liabilities of city and special school district systems;
- plans for disposition of existing bonded indebtedness that shall not impair the rights of any bondholder;
- plans for preserving the existing pension rights of all teachers and nonteaching personnel in the respective systems;
- plans for preserving the existing tenure rights, sick leave rights and salary schedule rights of all teachers and nonteaching personnel in the respective systems;
- appropriate plans for contributions by cities or special school districts to the county for the operation of a unified system of schools during the period of transition following unification, which shall not exceed three (3) years;
- appropriate plans for reapportionment after each federal decennial census of districts for election of members of the school board; and
- any other matters deemed by the planning commission to be pertinent.

<sup>122</sup> City of Shelbyville v. Bedford County Board of Education, 1984 Tenn. App. LEXIS 3014 (Ct. App. July 18, 1984).

<sup>123</sup> Ibid.

<sup>124</sup> Tennessee Code Annotated, Section 49-2-1201.



“The biggest complaint I’ve heard from people across the state that have dealt with these type situations is at the end of the process big lawsuits come about on how much is owed and what the price is for buildings and assets.”

Senator Todd Gardenhire,  
2018.

Though these considerations may be helpful in developing a method for transferring property to new city school systems, this process is optional and does not dictate how facilities should be transferred. Tennessee law states however that outstanding school debt owed by a city or special school district that disbands remains the obligation of the city or special school district unless the county agrees otherwise.<sup>125</sup>

### Proposed Legislation to Govern Transfer of School Facilities to Newly Formed Systems

In response to concerns regarding the lack of a method in state law for the transfer of school buildings to new city school systems, Senate Bill 1755 by Senator Gardenhire and House Bill 1757 by Representative Harry Brooks (110<sup>th</sup> General Assembly) would have required upon the formation of a new city school system that “all real and personal property that is located within the boundaries of the municipality and is owned by the county school system shall be declared surplus property by the county school system and transferred to the municipal school system.”<sup>126</sup> The bill, as amended, would have required TACIR to recommend “a process for determining the amount that a city must pay to fairly compensate the county for the school property the city seeks to obtain,” but the bill did not pass.<sup>127</sup> The process described in the amended version of the bill involved,

- the city identifying all school property within the city that it seeks acquire,
- an agreement on the appraised value by the city and county (or binding arbitration if no agreement can be reached), and
- a calculation of the amount the city is to pay for the school property that considers the contributions of the city and its taxpayers and school support organizations to the acquisition and construction of the properties in question— and to “[pre-K-12] education in general throughout the county” —in the 15 years preceding the city’s proposed acquisition.

Deciding what property to transfer to the new city school system may not be clear-cut in some circumstances—it might not make sense to transfer all of the property that is inside the city. In Shelby County, for instance, Germantown High School was not transferred to the Germantown Municipal School District because a majority of its students were not residents of Germantown (Houston High School was transferred instead).<sup>128</sup> Likewise, transferring facilities may not be equitable if a city forming a new school system does not serve all grade levels and the school within its borders is needed for them.

<sup>125</sup> Tennessee Code Annotated 49-2-1002(d).

<sup>126</sup> Senate Bill 1755 by Senator Gardenhire, House Bill 1757 by Representative Harry Brooks (2018).

<sup>127</sup> Senate Bill 1755 by Senator Gardenhire, Amendment 1 (2018).

<sup>128</sup> Baker 2013.

Appraisals of school buildings can vary significantly.<sup>129</sup> Older buildings may have deferred maintenance costs in excess of the total value of the building, but redevelopment potential might also be considered.<sup>130</sup> Charter schools have acquired fully depreciated buildings for little cost, and the county was willing to sell because it relieved the county of a liability.<sup>131</sup> For new personal property, relevant unit costs in the BEP could be used to calculate the value of real and personal property subject to transfer. For instance, textbook unit costs are based on the actual cost of textbooks that will be purchased for the upcoming school year.<sup>132</sup>

Senate Bill 1755, Amendment 1, describes what should be considered “contributions of the city” but does not provide the exact method for calculating those contributions. For instance, in-kind contributions by the city—including student resource officers, maintenance workers, police and fire protection, and the city’s contribution toward roads used by the schools—might all be included in the calculation. Including contributions of school support organizations would be particularly relevant to Signal Mountain because its school support organization, the Mountain Education Fund, contributed \$343,991 to Signal Mountain Schools in fiscal year 2015-16 alone.<sup>133</sup> Moreover, wealthier cities with larger tax bases will have contributed more than a poorer city would have, and nothing in the bill precludes a purchase price of \$0, which may be possible once all of the contributions over 15 years have been considered, especially in the case of older buildings that have depreciated for a number of years.

### Other States’ Methods for Transferring School Property to New School Systems

Other states’ laws provide guidance for transferring real and personal property to new school systems, either explicitly or by requiring the formation of a committee to create a plan for the transfer. These laws address transferring the title of school property between school systems and the settlement of outstanding debt for the property. Most states have only one type of school system, making comparisons to Tennessee’s public school systems difficult. Thirty-four states have only independent school systems; school systems in North Carolina and Maryland (with the exception of the City of Baltimore, which operates a school district independent of any county) are dependent on county governments; and Hawaii has a single state school system. Thirteen states, including Tennessee, have more than

Other states’ laws provide guidance for transferring real and personal property to new school systems.

<sup>129</sup> Email from Cameron Quick, Chief Operating Officer, Tennessee Charter School Center.

<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

<sup>132</sup> Tennessee Department of Education 2018. According to the BEP *Blue Book* for the 2018-19 School Year, the funding level for textbooks was \$77.50 per student (average daily membership).

<sup>133</sup> Signal Mountain School System Viability Committee 2017.

Specifying processes for transferring school property in state law may provide more guidance to cities seeking to form a new school system.

one type of school system with some combination of county, city, and independent school systems.<sup>134</sup>

Laws in at least seven of these multisystem states provide guidance for transferring school property, and payments for those transfers, when a new school system is formed. Statutes in California, New Hampshire, New Jersey, and New York direct a newly created school system to take possession of school property—the buildings, equipment, and other personal property—located in the area transferred from the original school system to the new school system and authorize or require

- consideration of the value of the property being transferred,<sup>135</sup>
- contributions made by the original and new school systems for capital costs associated with the property that is being transferred,<sup>136</sup> and
- the new system’s proportionate share of outstanding debt incurred for those capital costs,<sup>137</sup> which in some states may be based on the assessed value of taxable property of the transferring territory and the original district.<sup>138</sup>

However, analyzing the effects of these provisions is difficult, both because each state differs in its level of specificity and particular methodology for calculating the amount a new school system must pay and because only one, California, has formed a new school system since 2000.<sup>139</sup> Moreover, there were no school facilities in the new system’s boundaries.<sup>140</sup>

Specifying processes for transferring school property in state law may provide more guidance to cities seeking to form a new school system, but it may also limit the ability of local governments and school boards to decide on other arrangements unless the law provides flexibility for school systems to do so. For example, California authorizes school systems to agree to a method for dividing bonded indebtedness that considers the “assessed valuation, number of pupils, property values, and other matters” the systems find relevant as an alternative to the method specified in state law.<sup>141</sup> Similar to Tennessee Senator Gardenhire’s Senate Bill 1755, Amendment 1, California provides for the arbitration of disputes arising

<sup>134</sup> US Census Bureau 2019b. See also figure 4.

<sup>135</sup> California Education Code, Section 35738; New Jersey Annotated Statutes, Section 18A:13-61 and New York Education Law, Section 2218.

<sup>136</sup> New Hampshire Revised Statutes Annotated, Section 195:28.

<sup>137</sup> California Education Code, Section 35576; New Hampshire Revised Statutes Annotated, Section 195:27; New Jersey Revised Statutes, Section 18A:13-53; New York Education Law, Sections 1504 and 2218.

<sup>138</sup> California Education Code, Section 35576 and New York Education Law, Sections 1504 and 2218.

<sup>139</sup> EdBuild 2019. Loch Arbour left the Ocean Township School District in New Jersey, but students were transferred to neighboring districts and no new school system was formed.

<sup>140</sup> Merl 2004.

<sup>141</sup> California Education Code, Section 35738.

“between the governing boards of . . . districts concerning the division of funds, property, or obligations.”<sup>142</sup>

Three multisystem states—Connecticut,<sup>143</sup> Maine,<sup>144</sup> and Massachusetts<sup>145</sup>—require the creation of a committee to develop a plan for resolving a variety of issues associated with a proposed new school system formation, including how to divide real and personal school property and settle financial obligations between the new and original school systems. While California and New Hampshire direct a new school system to take possession of property located in its territory, committees in these states develop plans that identify the new school system’s liability for the outstanding capital debt of the original school system.<sup>146</sup> These states do not prescribe a particular method that a committee must use in determining how assets should be valued or how outstanding debt should be allocated, but Connecticut<sup>147</sup> requires a committee to consider the ratio of the new school district’s average daily membership to that of the original school district in apportioning the original district’s net assets.

### Referendum on Forming a New City School System

Currently, city residents vote in a referendum to determine whether to form a new city school system before they know what it will cost the city—and by extension the city’s taxpayers—to acquire all of the property it will need to operate. The first step in the process is for a city’s governing body to request a referendum on the issue of “rais[ing] local funds to support the proposed city school system.”<sup>148</sup> If the vote is in favor, then an initial city board of education is created that plans and manages the school system formation. In at least five other multisystem states—California,<sup>149</sup> Connecticut,<sup>150</sup> Maine,<sup>151</sup> New Hampshire,<sup>152</sup> and New Jersey<sup>153</sup>—an election is held on the issue of forming a new school system after a transition plan is created in order to make voters aware of the anticipated costs of forming the new school system before holding a referendum. New York also requires a transition plan to be created before a referendum may be held; however, a referendum is not required if at least two-thirds of the city’s local governing body and the existing school system’s board of education vote to approve the new school system.<sup>154</sup>

City residents vote in a referendum to determine whether to form a new city school system before they know what it will cost the city—and by extension the city’s taxpayers—to acquire all of the property it will need to operate.

<sup>142</sup> California Education Code, Section 35565.

<sup>143</sup> Connecticut Annotated Statutes, Sections 10-63b and 10-63c.

<sup>144</sup> Maine Revised Statutes Annotated, Title 20-A, Section 1466.

<sup>145</sup> Code of Massachusetts Regulations, Title 603, Section 41.02.

<sup>146</sup> California Education Code, Section 35738 and New Hampshire Revised Statutes Annotated, Sections 195:25-195:26.

<sup>147</sup> Connecticut Annotated Statutes, Section 10-63c.

<sup>148</sup> Tennessee Code Annotated, Section 49-2-127.

<sup>149</sup> California Education Code, Sections 35755-35756.

<sup>150</sup> Connecticut Annotated Statutes, Section 10-63c. See also Sections 10-43 and 10-45.

<sup>151</sup> Maine Revised Statutes Annotated, Title 20-A, Section 1466.

<sup>152</sup> New Hampshire Revised Statutes Annotated, Section 195:29.

<sup>153</sup> New Jersey Revised Statutes, Section 18A:13-54 and Section 18A:13-58.

<sup>154</sup> New York Education Law, Section 2218.

Any city wanting to create a new city school system would need to be authorized by its charter to do so.

By creating a plan for transferring school property before holding a referendum, local governments may incur costs before knowing whether its voters will approve the creation of a city school system. This issue may be mitigated by first gauging public interest in forming a new school system. For example, Maine initially requires a vote on a petition to create a new school system. If approved, a committee then develops an agreement that includes a plan for dividing school property. If the Maine Commissioner of Education approves the agreement, then another vote is held to approve the new city school system formation and the implementation of the agreement.<sup>155</sup>

### Other Requirements for Forming a City School System

Any city wanting to create a new city school system would need to be authorized by its charter to do so. Tennessee cities have one of three different types of charters—home rule, general law, or private act—and the type of charter determines which laws apply to them. Cities with home rule charters may adopt and change their charters by local referendum, and the legislature may not pass private acts that apply to that city.<sup>156</sup> General laws applying to all cities apply to home rule cities as well.<sup>157</sup> All general law charters, along with some private act charters, authorize the creation of city school systems.<sup>158</sup> A city with a private act charter that does not authorize the creation of a city school system would need the General Assembly to pass a private act amending its charter to include the authorization.<sup>159</sup> Before a new city school system may commence instruction, the city must complete a new local education agency operation application and the Tennessee Department of Education must approve the application (See Appendix H).

Tennessee prohibits a city from operating a school system “unless the school system is large enough to offer adequate educational opportunities” to its students.<sup>160</sup> Tennessee State Board of Education rules require a city seeking to form a city school system to have a “scholastic population within its boundaries that will assure an enrollment of at least 1,500 pupils in its public schools, or . . . at least 2,000 pupils presently enrolled in the proposed school system.”<sup>161</sup> While the optimal school system size has been debated for years, systems “of fewer than 500 students may be too small to provide needed courses and student activities,”<sup>162</sup> and smaller school systems, as well as very large ones, tend to have higher than average administrative costs.<sup>163</sup>

<sup>155</sup> Maine Revised Statutes Annotated, Title 20-A, Section 1466.

<sup>156</sup> Tennessee Constitution, Article XI, Section 9.

<sup>157</sup> University of Tennessee Municipal Technical Advisory Service 2018a.

<sup>158</sup> Tennessee Code Annotated, Sections 6-2-201(29), 6-19-101(30), 6-19-103, and 6-33-101.

<sup>159</sup> University of Tennessee Municipal Technical Advisory Service 2018b.

<sup>160</sup> Tennessee Code Annotated, Section 49-2-106.

<sup>161</sup> Rules and Regulations of the State of Tennessee, Section 0520-01-08-.01.

<sup>162</sup> Association of Independent and Municipal Schools 2004.

<sup>163</sup> Tennessee Advisory Commission on Intergovernmental Relations 2015.

Based on US Census estimates,<sup>164</sup> 37 cities that do not already operate a city school system have populations that meet the requirements for forming a new city-school system (ages 5-18). Of these 37 cities, five have home rule charters, and each of these charters contain authorization for the formation of a school system. Ten of these 37 cities have adopted a general law charter, five of which have a city manager-commission general law charter and seven of which have a mayor-aldermanic general law charter. The remaining 20 cities were created through private acts, and eight of the 20 are already authorized through their private acts to form their own school system. The other 12 cities would have to take the additional step of amending their private acts to include authorization for forming their own school systems (see table 11).

**Table 11. Charter Type of Cities with a Population, Ages 5 to 18, of at Least 1,500**

City	Scholastic Population	Type of Charter
Atoka	2,016	Private Act*
Brentwood	10,081	City Manager-Commission
Brownsville	1,846	Private Act
Chattanooga**	25,309	Home Rule
Clarksville	26,727	Private Act
Columbia	6,669	Private Act*
Cookeville	3,950	Private Act
Crossville	1,992	Private Act
Dickson	2,600	Private Act
East Ridge	3,435	Home Rule
Fairview	1,669	City Manager-Commission
Farragut	4,555	Mayor-Aldermanic
Franklin	13,756	Private Act
Gallatin	5,792	Private Act
Goodlettsville	2,677	City Manager-Commission
Greenbrier	1,617	Private Act
Hendersonville	10,657	Mayor-Aldermanic
Jackson	11,213	Private Act
Knoxville**	24,304	Home Rule
La Vergne	8,345	Mayor-Aldermanic
Lebanon	5,400	Private Act*
Lewisburg	2,164	Private Act*
McMinnville	2,313	Mayor-Aldermanic
Morristown	5,036	Private Act*
Mt. Juliet	6,857	Home Rule
Nolensville	2,180	Mayor-Aldermanic
Paris	1,782	City Manager-Commission

<sup>164</sup> US Census Bureau, 2013-2017 American Community Survey 5-Year Estimates.



**Table 11. Charter Type of Cities with a Population, Ages 5 to 18, of at Least 1,500 (continued)**

City	Scholastic Population	Type of Charter
Portland	2,307	Private Act*
Ripley	1,738	Private Act
Sevierville	2,434	Home Rule
Shelbyville	4,052	Private Act
Signal Mountain	1,857	Private Act*
Smyrna	8,495	Private Act
Soddy-Daisy	2,000	City Manager-Commission
Spring Hill	9,671	Mayor-Aldermanic
Springfield	2,942	Private Act*
White House	2,154	Mayor-Aldermanic

Source: US Census Bureau, American Community Survey 5-Year Estimates, 2013-2017; University of Tennessee Municipal Technical Advisory Service.

\*These private act charters authorize the formation of a city school system.

\*\*These cities had city school systems in the past.

State law also requires that voters choose to raise local funds to support a proposed city school system,<sup>165</sup> and State Board of Education rules require the city to spend annually an amount “at least equal to that which a fifteen cents (\$ 0.15) tax levy on each one hundred dollars (\$ 100.00) of taxable property for the current year in said city school district would produce if the same were all collected.”<sup>166</sup>

### ***Other concerns about local revenue and services in Tennessee warrant further study***

In addition to this report, TACIR has completed its work on the local revenue and services series. During its discussion of House Bill 971 by Representative Sargent, Senate Bill 1075 by Senator Watson, the House Finance Ways and Means Committee asked TACIR to study the revenue sources of cities and counties in Tennessee and the services cities and counties provide. In February 2019, TACIR published the first interim report in this series on Internet Sales Tax in Tennessee, and the second interim report on K-12 education funding was published in January 2020. Its more holistic treatment of revenue provides helpful context for evaluating other potential sources of education funding: state-shared taxes, for instance. The third and final report in the series, which was published in December 2020, provides a broad overview of the services local governments in Tennessee provide—including both required services and those that are authorized but not required—and the revenue available to fund them.

<sup>165</sup> Tennessee Code Annotated, Section 49-2-127.

<sup>166</sup> Rules and Regulations of the State of Tennessee, Section 0520-01-08-.01(5).

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## Appendix A. Senate Joint Resolution 593



# *State of Tennessee*

### SENATE JOINT RESOLUTION NO. 593

By Haile, Crowe

A RESOLUTION to direct the Tennessee Advisory Commission on Intergovernmental Relations to study the overall effects on public education relative to having multiple school districts operating in the same county.

WHEREAS, in many counties across Tennessee, there are municipal or special school districts in operation in addition to the county-operated school district; and

WHEREAS, current law allows for the creation of additional municipal school districts and establishes requirements for sharing revenue—both operational expenses and bonded indebtedness for capital construction—among school districts within a county affecting the fiscal health and operations of the county school system; and

WHEREAS, these requirements may create structural disparities in the resources available to county and municipal or special school districts and may unnecessarily increase the level of local government indebtedness for capital projects; and

WHEREAS, the creation of new school districts has in the past created conflict regarding the ownership of existing school buildings and facilities; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED TENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, that the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) is directed to perform a study of the overall effects on public education relative to the laws and regulations related to the sharing of resources among school districts located in the same county and the effect of the operation within a county of municipal or special school districts in addition to the county school system.

BE IT FURTHER RESOLVED, that it is the legislative intent that TACIR shall conduct this study using its existing resources.

BE IT FURTHER RESOLVED, that all appropriate state departments and agencies shall assist TACIR as requested.

BE IT FURTHER RESOLVED, that TACIR is requested to report its findings and recommendations, including any proposed legislation, upon conclusion of the study to the chairs of the Education Committees of the Senate and the House of Representatives.

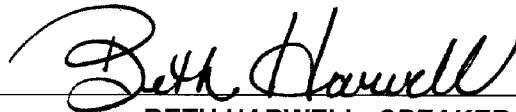


SENATE JOINT RESOLUTION NO. 593

ADOPTED: April 16, 2018



RANDY McNALLY  
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 18<sup>th</sup> day of April 2018



BILL HASLAM, GOVERNOR

## Appendix B. Senate Bill 1755 by Senator Gardenhire

<BillNo> <Sponsor>

SENATE BILL 1755

By Gardenhire

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6, relative to the sale or transfer of surplus property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-6-2007(b), is amended by deleting the subdivision in its entirety and substituting instead:

(b) All local school systems that receive any state funds shall sell, within ninety (90) days of its being declared surplus, all surplus property to the highest bidder. The local board of education shall determine the method of advertisement, which may include advertisement in a newspaper of general circulation or advertisement on a website maintained by the LEA or the local government. The local board of education shall advertise at least seven (7) days prior to the sale of surplus property.

SECTION 2. Tennessee Code Annotated, Section 49-6-2007(c), is amended by deleting the subdivision in its entirety and substituting instead:

(c) As used in this section, "surplus property" is that personal or real property no longer having the original intended use by the school system or no longer capable of being used because of its condition.

SECTION 3. Tennessee Code Annotated, Section 49-6-2007, is amended by adding the following language as a new subsection:

(g) Notwithstanding subsections (b), (e), or (f), if a municipality creates or reactivates a city school system pursuant to §§ 49-2-106 and 49-2-127, all real and personal property that is located within the boundaries of the municipality and is owned

SB1755  
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by the county school system shall be declared surplus property by the county school system and transferred to the municipal school system.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

## Appendix C. Amendment to Senate Bill 1755 by Senator Gresham

Senate Education Committee 1

Amendment No. 1 to SB1755

**Gresham**  
Signature of Sponsor

**AMEND Senate Bill No. 1755\***

**House Bill No. 1757**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1.

(a) As used in this section:

(1) "School personal property" means property that is:

(A) Personal property as defined in § 67-5-501;

(B) Owned by the county school system in a county in which a city proposes to open a new city school system pursuant to §§ 49-2-106 and 49-2-127 and the rules of the state board of education; and

(C) Located within the city proposing to open the new city school system;

(2) "School property" includes school personal property and school real property; and

(3) "School real property" means property that is:

(A) Real property as defined in § 67-5-501;

(B) Owned by the county school system in a county in which a city proposes to open a new city school system pursuant to §§ 49-2-106 and 49-2-127 and the rules of the state board of education; and

(C) Located within the city proposing to open the new city school system.

(b) The Tennessee advisory commission on intergovernmental relations (TACIR) is directed to perform a study on the constitutional and equitable transfer of school

**Senate Education Committee 1**

**Amendment No. 1 to SB1755**

**Gresham**  
**Signature of Sponsor**

**AMEND Senate Bill No. 1755\***

**House Bill No. 1757**

property to a proposed city school system and other issues associated with forming a new city school system. TACIR shall report its recommendations concerning the constitutional and equitable transfer of school property to the general assembly by the second Tuesday in January 2019. TACIR's recommendations shall include a process for determining the amount that a city must pay to fairly compensate the county for the school property the city seeks to obtain.

(c) In conducting the study under subsection (b), TACIR shall consider whether the following process for determining the amount that a city must pay for school property compensates the county equitably for the transfer of the school property:

(1) Before conducting a referendum under §§ 49-2-106 and 49-2-127 and the rules of the state board of education, the city shall identify all school property that the city seeks to acquire;

(2) The city legislative body shall hire a state-certified general appraiser to appraise each parcel of school real property that the city seeks to acquire;

(3) The county legislative body may hire, if it desires, a state-certified general appraiser to appraise each parcel of school real property that the city seeks to acquire;

(4) The city legislative body shall hire a certified public accountant or an appraiser with expertise in valuation of personal property to determine the value of the school personal property that the city seeks to acquire;

(5) The county legislative body may hire, if it desires, a certified public accountant or an appraiser with expertise in valuation of personal property to

determine the value of the school personal property that the city seeks to acquire;

(6)

(A) If the county legislative body does not hire an appraiser under subdivision (c)(3), then the appraised value set by the city's appraiser shall be considered the fair market value of the parcels of school real property; or

(B) If the county legislative body does not hire an accountant or appraiser under subdivision (c)(5), then the valuation of the city's accountant or appraiser shall be the fair market value of the school personal property;

(7)

(A) If both the city and county legislative bodies hire appraisers and the city and county legislative bodies cannot reach agreement on the fair market value of a parcel of school real property based on the fair market values set by their respective appraisers, then the city and county legislative bodies shall submit the parcel's valuation to binding arbitration; or

(B) If both the city and county legislative bodies hire accountants or appraisers and the city and county legislative bodies cannot reach agreement on an item of school personal property's fair market value based on the fair market values set by their respective accountants or appraisers, then the city and county legislative bodies shall submit the item's valuation to binding arbitration; and

(8) After the school property's total fair market value is obtained pursuant to subdivision (c)(6) or (c)(7), the amount the city is to pay for the school property

shall be calculated as the school property's total fair market value less the amount:

(A) The city and its taxpayers contributed to the county and the county school system toward the school property's acquisition or construction;

(B) The city and its taxpayers contributed for pre-kindergarten through grade twelve (pre-K-12) education in general throughout the county in the fifteen (15) years preceding the city's proposed acquisition; and

(C) School support organizations, as defined in § 49-2-603, for the schools that the city proposes to acquire, contributed to the county and county school system for school property in the fifteen (15) years preceding the city's proposed acquisition.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.



## Appendix D: Weighted Full Time Equivalent Average Daily Attendance (WFTEADA) and Average Daily Membership (ADM) for School Systems in Counties with More Than One School System, Fiscal Year 2017-18

County System	Weighted Full Time Equivalent Average Daily Attendance	Percent of County	Average Daily Membership	Percent of County	City System	Weighted Full Time Equivalent Average Daily Attendance	Percent of County	Average Daily Membership	Percent of County
Anderson	7,624	56.3%	6,291	54.1%	Clinton	1,105	8.1%	942	17.6%
					Oak Ridge*	4,763	34.9%	4,396	37.8%
Blount	12,705	59.0%	10,474	59.2%	Alcoa	2,368	11.0%	1,956	27.1%
					Maryville	6,472	30.0%	5,269	29.8%
Bradley	11,917	64.2%	9,884	64.1%	Cleveland	6,659	35.8%	5,524	35.9%
Carter	5,955	65.7%	5,045	67.2%	Elizabethton	2,996	33.1%	2,460	32.8%
					Johnson City*	108	1.2%		
Cocke	5,315	87.4%	4,383	86.7%	Newport	769	12.6%	671	13.3%
Coffee	5,329	49.3%	4,291	47.8%	Manchester	1,559	14.4%	1,341	14.9%
					Tullahoma*	3,927	36.3%	3,343	37.2%
Crockett	2,508	70.4%	1,985	68.8%	Alamo	612	17.2%	529	18.4%
					Bells	440	12.4%	369	12.8%
Dyer	4,599	60.5%	3,827	60.3%	Dyersburg	3,006	39.5%	2,515	39.7%
Franklin	6,171	98.7%	5,092	100.0%	Tullahoma*	79	1.3%		
Greene	7,718	68.6%	6,421	70.1%	Greeneville	3,529	31.4%	2,739	29.9%
Hawkins	7,941	85.8%	6,509	91.0%	Rogersville	738	8.0%	644	9.0%
					Kingsport*	571	6.2%		
Henderson	4,660	83.4%	3,830	82.5%	Lexington	930	16.6%	811	17.5%
Lincoln	4,457	73.2%	3,695	73.0%	Fayetteville	1,630	26.8%	1,365	27.0%
Loudon	5,677	67.4%	4,737	63.3%	Lenoir City	2,742	32.6%	2,742	36.7%
McMinn	6,717	74.6%	5,420	73.5%	Athens	1,849	20.5%	1,584	21.5%
					Etowah	439	4.9%	369	5.0%
Monroe	5,903	77.9%	5,206	78.2%	Sweetwater	1,670	22.1%	1,450	21.8%
Obion	3,905	66.6%	3,208	66.7%	Union City	1,959	33.4%	1,600	33.3%
Rhea	5,085	84.1%	4,169	83.3%	Dayton	964	15.9%	835	16.7%
Roane	7,819	93.6%	6,396	100.0%	Oak Ridge*	537	6.4%		
Rutherford	54,687	85.0%	44,843	84.3%	Murfreesboro	9,676	15.0%	8,353	15.7%
Shelby	135,366	77.6%	114,783	78.1%	Arlington	5,643	3.2%	4,568	3.1%
					Bartlett	10,795	6.2%	8,964	6.1%

**Appendix D: Weighted Full Time Equivalent Average Daily Attendance (WFTEADA) and Average Daily Membership (ADM) for School Systems in Counties with More Than One School System, Fiscal Year 2017-18 (continued)**

County System	Weighted Full Time Equivalent Average Daily Attendance	Percent of County	Average Daily Membership	Percent of County	City System	Weighted Full Time Equivalent Average Daily Attendance	Percent of County	Average Daily Membership	Percent of County	Special School District	Weighted Full Time Equivalent Average Daily Attendance	Percent of County	Average Daily Membership	Percent of County
					Collierville	10,348		8,590	5.9%		10,348		8,590	5.8%
					Germantown	7,250		6,005	4.2%		7,250		6,005	4.1%
					Lakeland	1,882		1,611	1.1%		1,882		1,611	1.1%
					Millington	3,048		2,494	1.7%		3,048		2,494	1.7%
Sullivan	11,406	46.5%	9,367	45.3%	Bristol	4,841		3,940	19.7%		4,841		3,940	19.1%
					Kingsport*	8,228		7,361	33.5%		8,228		7,361	35.6%
					Johnson City*	60			0.2%		60			
Washington	10,076	52.4%	8,324	51.8%	Johnson City*	9,139		7,738	47.6%		9,139		7,738	48.2%
County System	Weighted Full Time Equivalent Average Daily Attendance	Percent of County	Average Daily Membership	Percent of County	Special School District	Weighted Full Time Equivalent Average Daily Attendance	Percent of County	Average Daily Membership	Percent of County		Weighted Full Time Equivalent Average Daily Attendance	Percent of County	Average Daily Membership	Percent of County
Carroll	110	2.04%	4	0.1%	Hollow Rock-Bruceton	759		620	14.06%		759		620	14.3%
					Huntingdon	1,463		1,237	27.10%		1,463		1,237	28.5%
					McKenzie	1,619		1,289	29.99%		1,619		1,289	29.7%
					South Carroll	407		336	7.54%		407		336	7.7%
					West Carroll	1,041		858	19.28%		1,041		858	19.8%
Henry	3,645	66.5%	2,904	64.3%	Paris	1,835		1,612	33.5%		1,835		1,612	35.7%
Marion	4,746	94.0%	3,959	94.1%	Richard City	305		248	6.0%		305		248	5.9%
Scott	3,370	69.6%	2,782	69.7%	Oneida	1,469		1,210	30.4%		1,469		1,210	30.3%
Williamson	46,627	92.0%	38,685	91.6%	Franklin SSD	4,076		3,528	8.0%		4,076		3,528	8.4%
Wilson	22,092	84.1%	18,051	83.3%	Lebanon	4,187		3,627	15.9%		4,187		3,627	16.7%
					Gibson County School System	Weighted Full Time Equivalent Average Daily Attendance	Percent of County	Average Daily Membership	Percent of County		Weighted Full Time Equivalent Average Daily Attendance	Percent of County	Average Daily Membership	Percent of County
					Humboldt City	1,174		1,013	11.2%		1,174		1,013	11.7%
					Milan SSD	2,365		1,924	22.6%		2,365		1,924	22.3%
					Trenton SSD	1,533		1,269	14.6%		1,533		1,269	14.7%
					Bradford SSD	637		519	6.1%		637		519	6.0%
					Gibson County SSD	4,763		3,912	45.5%		4,763		3,912	45.3%

\*Average daily membership is listed once in the county with the most students for cities school systems with WFTEADA in more than one county.

## Appendix E: Tennessee Public School Systems in Multi-System Counties by Grades Served, Property Tax Base, and Sales Tax Base

School System	Grades Served	2016-17 Enrollment*	2018 Property Tax Base	Property Tax Base Per Student	2018 Sales Tax Base	Sales Tax Base Per Student
Anderson County	K-12	6,360	\$ 628,176,798	\$98,773	\$ 114,667,826	\$18,030
Clinton	K-6	898	387,896,363	\$432,018	229,640,334	\$255,761
Oak Ridge	K-12	4,391	661,531,423	\$150,670	709,808,499	\$161,666
Blount County	K-12	10,528	2,127,762,019	\$202,113	317,007,965	\$30,112
Alcoa	K-12	1,918	519,230,168	\$270,660	646,611,987	\$337,060
Maryville	K-12	5,153	949,416,858	\$184,250	691,783,203	\$134,252
Bradley County	K-12	9,778	1,101,526,753	\$112,652	144,253,141	\$14,753
Cleveland	K-12	5,489	1,285,184,363	\$234,131	1,013,609,836	\$184,656
Carroll County	K-12	3	3	\$1	173,892,255	\$39,925
Hollow Rock-Bruceton SSD	K-12	633	45,088,426	\$71,253		
Huntingdon SSD	K-12	1,210	121,868,091	\$100,712		
McKenzie SSD	K-12	1,276	102,742,921	\$80,496		
South Carroll SSD	K-12	338	35,229,899	\$104,361		
West Carroll SSD	K-12	895	95,585,862	\$106,751		
Carter County	K-12	5,252	596,907,740	\$113,655	0	\$0
Elizabethton	K-12	2,464	275,760,802	\$111,929	332,976,067	\$135,152
Cocke County	K-12	4,442	449,980,753	\$101,300	63,839,746	\$14,372
Newport	K-8	665	147,637,320	\$222,167	250,935,360	\$377,611
Coffee County	K-12	4,329	514,895,983	\$118,942	108,666,166	\$25,102
Manchester	K-8	1,315	237,283,793	\$180,442	283,948,798	\$215,928
Tullahoma	K-12	3,438	410,200,906	\$119,320	411,480,309	\$119,692
Crockett County	K-12	1,984	175,104,933	\$88,277	26,981,788	\$13,603
Alamo	K-6	571	37,089,603	\$64,999	17,944,540	\$31,447
Bells	K-5	362	37,768,053	\$104,261	15,564,145	\$42,966
Dyer County	K-12	3,769	369,393,381	\$98,009	45,229,354	\$12,000
Dyersburg	K-12	2,621	321,692,483	\$122,736	382,408,889	\$145,901
Franklin County**	K-12	5,287	991,429,212	\$187,528	346,747,999	\$45,246
Humboldt	K-12	1,088	130,907,614	\$120,343	108,957,260	\$100,164
Milan SSD	K-12	1,953	182,096,136	\$93,240		
Trenton SSD	K-12	1,258	120,134,772	\$95,495		
Bradford SSD	K-12	520	48,097,982	\$92,452		
Gibson County SSD	K-12	3,932	314,243,246	\$79,911		
Greene County	K-12	6,561	932,950,030	\$142,192	116,533,533	\$17,761
Greeneville	K-12	2,739	447,329,340	\$163,306	472,034,318	\$172,325
Hawkins County	K-12	6,646	955,070,432	\$143,717	168,986,160	\$25,429
Rogersville	K-8	657	128,807,511	\$196,177	136,374,424	\$207,702
Henderson County	K-12	3,868	252,686,529	\$65,324	45,065,421	\$11,650
Lexington	K-8	817	183,131,696	\$224,126	208,290,225	\$254,917
Henry County	K-12	2,945	442,688,087	\$150,343	363,894,397	\$79,816
Paris SSD	K-8	1,615	191,205,071	\$118,422		
Lincoln County	K-12	3,760	435,034,035	\$115,699	55,358,727	\$14,723
Fayetteville	K-12	1,378	174,114,478	\$126,329	202,116,256	\$146,646

## Appendix E: Tennessee Public School Systems in Multi-System Counties by Grades Served, Property Tax Base, and Sales Tax Base (continued)

School System	Grades Served	2016-17 Enrollment*	2018 Property Tax Base	Property Tax Base Per Student	2018 Sales Tax Base	Sales Tax Base Per Student
Loudon County	K-12	4,624	1,543,409,469	\$333,804	183,784,328	\$39,748
Lenoir City	K-12	2,205	264,924,551	\$120,163	87,449,446	\$39,665
McMinn County	K-12	5,506	730,959,443	\$132,751	60,764,967	\$11,036
Athens	K-8	1,551	483,842,519	\$311,906	404,279,677	\$260,617
Etowah	K-8	352	74,469,122	\$211,588	41,466,638	\$117,819
Marion County	K-12	3,992	680,774,664	\$170,549	324,432,811	\$76,466
Richard City SSD	K-12	251	12,139,670	\$48,329		
Monroe County	K-12	5,344	992,225,302	\$185,672	257,730,820	\$48,228
Sweetwater	K-8	1,517	139,761,588	\$92,143	132,324,139	\$87,239
Obion County	K-12	3,299	428,950,406	\$130,013	55,765,841	\$16,902
Union City	K-12	1,608	210,260,680	\$130,784	257,572,793	\$160,212
Rhea County	K-12	4,214	475,112,964	\$112,735	78,692,445	\$18,672
Dayton	K-8	827	178,279,713	\$215,520	197,140,910	\$238,321
Roane County**	K-12	6,472	1,110,205,527	\$171,531	413,945,811	\$63,956
Rutherford County	K-12	43,789	4,990,470,143	\$113,967	1,544,702,195	\$35,276
Murfreesboro	K-6	8,015	4,458,124,578	\$556,199	3,006,843,042	\$375,136
Scott County	K-12	2,767	278,304,771	\$100,572	165,228,253	\$41,256
Oneida SSD	K-12	1,238	63,259,604	\$51,111		
Shelby County	K-12	114,495	14,574,956,899	\$127,298	9,905,582,882	\$86,515
Arlington	K-12	5,087	386,158,169	\$75,903	110,445,475	\$21,709
Bartlett	K-12	8,691	1,326,830,977	\$152,673	722,752,920	\$83,164
Collierville	K-12	8,290	1,782,652,802	\$215,047	847,425,460	\$102,228
Germantown	K-12	5,877	1,654,930,652	\$281,596	556,783,461	\$94,740
Lakeland	K-8	944	356,618,730	\$377,817	54,395,449	\$57,629
Millington	K-12	2,544	197,157,034	\$77,494	284,429,326	\$111,797
Sullivan County	K-12	9,650	2,119,989,961	\$219,699	240,222,746	\$24,895
Bristol	K-12	3,956	717,828,302	\$181,454	509,635,857	\$128,827
Kingsport	K-12	7,333	1,846,680,105	\$251,848	1,352,806,022	\$184,494
Washington County	K-12	8,447	1,209,139,096	\$143,151	212,163,389	\$25,118
Johnson City	K-12	7,723	1,846,151,049	\$239,043	1,657,003,048	\$214,552
Williamson County	K-12	37,661	9,967,694,508	\$264,669	4,549,545,687	\$110,428
Franklin SSD	K-8	3,538	2,653,563,791	\$749,965		
Wilson County	K-12	17,693	3,146,847,723	\$177,863	1,901,233,087	\$89,556
Lebanon SSD	K-8	3,537	1,133,377,204	\$320,433		
County School Systems		343,460	\$ 52,222,647,561	\$152,049	\$ 21,811,027,485	\$63,504
City School Systems		102,482	\$ 21,573,204,365	\$210,507	\$ 16,337,238,113	\$159,416
Special School Districts		22,195	\$ 5,118,632,675	\$230,625		
<b>Totals</b>		<b>468,140</b>	<b>\$ 78,914,484,604</b>	<b>\$168,570</b>	<b>\$ 38,322,157,853</b>	<b>\$81,860</b>

Source: US Department of Education, National Center for Education Statistics, Common Core of Data (CCD), "Local Education Agency (School District) Universe Survey"; Tennessee Department of Education, Average Daily Membership (ADM); Federal Reserve Bank of St. Louis, Government Consumption Price Index.

Note: State law only authorizes Special School Districts to levy a property tax.

\*Enrollment as a measure of Average Daily Membership (ADM)

\*\*Franklin and Roane counties are considered multi-system counties because they contain city systems that cross county lines.

## Appendix F: Tennessee Public School Systems in Multi-System Counties by Grades Served, Average Daily Membership, Long-Term Debt, and Needed Infrastructure Improvements

School System	Grades Served	2015-16 Enrollment*	2016-17 Enrollment*	2015-16 Long-Term Debt	Long-Term Debt Per Student	2016-17 Infrastructure Needs	Infrastructure Needs Per Student
Anderson County	K-12	6,370	6,360	\$ 34,706,000	\$5,449	\$ 14,533,188	\$2,285
Clinton	K-6	880	898	2,001,000	\$2,273	425,000	\$473
Oak Ridge	K-12	4,420	4,391	75,585,000	\$17,100	21,208,133	\$4,830
Blount County	K-12	10,748	10,528	1,396,000	\$130	28,639,163	\$2,720
Alcoa	K-12	1,890	1,918	38,562,000	\$20,408	12,510,999	\$6,522
Maryville	K-12	5,047	5,153	23,691,000	\$4,694	10,653,800	\$2,068
Bradley County	K-12	9,917	9,778	50,761,000	\$5,119	47,332,500	\$4,841
Cleveland	K-12	5,406	5,489	34,640,000	\$6,408	19,701,000	\$3,589
Carroll County	K-12	2	3	0	\$0	270,000	\$82,574
Hollow Rock-Bruceton SSD	K-12	640	633	2,150,000	\$3,360	0	\$0
Huntingdon SSD	K-12	1,184	1,210	4,945,000	\$4,176	0	\$0
McKenzie SSD	K-12	1,306	1,276	4,420,000	\$3,385	1,740,000	\$1,363
South Carroll SSD	K-12	338	338	3,166,000	\$9,377	50,000	\$148
West Carroll SSD	K-12	893	895	4,460,000	\$4,995	107,316	\$120
Carter County	K-12	5,241	5,252	3,783,000	\$722	16,502,135	\$3,142
Elizabethton	K-12	2,448	2,464	8,880,000	\$3,627	10,606,384	\$4,305
Cocke County	K-12	4,468	4,442	14,775,000	\$3,307	20,565,807	\$4,630
Newport	K-8	713	665	3,958,000	\$5,553	365,000	\$549
Coffee County	K-12	4,351	4,329	52,312,000	\$12,024	26,650,000	\$6,156
Manchester	K-8	1,317	1,315	11,650,000	\$8,849	0	\$0
Tullahoma	K-12	3,410	3,438	27,112,000	\$7,951	1,500,000	\$436
Crockett County	K-12	1,942	1,984	11,032,000	\$5,682	9,380,000	\$4,729
Alamo	K-6	583	571	270,000	\$463	8,910,000	\$15,615
Bells	K-5	373	362	0	\$0	115,000	\$317
Dyer County	K-12	3,833	3,769	33,424,000	\$8,720	2,866,000	\$760
Dyersburg	K-12	2,610	2,621	11,212,000	\$4,296	5,520,000	\$2,106
Franklin County**	K-12	5,411	5,287	10,913,000	\$2,017	5,668,500	\$1,072
Gibson County							
Humboldt	K-12	1,046	1,088	510,000	\$487	460,000	\$423
Milan SSD	K-12	1,938	1,953	7,465,000	\$3,851	3,861,442	\$1,977
Trenton SSD	K-12	1,289	1,258	17,854,000	\$13,849	0	\$0
Bradford SSD	K-12	500	520	1,562,000	\$3,126	200,000	\$384
Gibson County SSD	K-12	3,937	3,932	49,485,000	\$12,569	17,800,000	\$4,527
Greene County	K-12	6,672	6,561	14,215,000	\$2,130	2,648,000	\$404
Greeneville	K-12	2,769	2,739	995,000	\$359	12,370,714	\$4,516
Hawkins County	K-12	6,899	6,646	70,504,000	\$10,219	11,432,585	\$1,720
Rogersville	K-8	639	657	2,225,000	\$3,481	100,000	\$152
Henderson County	K-12	3,870	3,868	3,569,000	\$922	2,796,995	\$723
Lexington	K-8	881	817	8,001,000	\$9,078	698,000	\$854
Henry County	K-12	2,957	2,945	11,557,000	\$3,909	5,441,654	\$1,848
Paris SSD	K-8	1,690	1,615	10,832,000	\$6,410	3,800,000	\$2,354
Lincoln County	K-12	3,835	3,760	6,005,000	\$1,566	10,000	\$3
Fayetteville	K-12	1,434	1,378	5,520,000	\$3,850	2,203,000	\$1,598
Loudon County	K-12	4,674	4,624	49,776,000	\$10,651	1,456,600	\$315
Lenoir City	K-12	2,264	2,205	10,094,000	\$4,458	4,080,000	\$1,851
McMinn County	K-12	5,518	5,506	0	\$0	8,618,340	\$1,565
Athens	K-8	1,570	1,551	0	\$0	16,507,000	\$10,641
Etowah	K-8	353	352	0	\$0	1,285,000	\$3,651

### Appendix F: Tennessee Public School Systems in Multi-System Counties by Grades Served, Average Daily Membership, Long-Term Debt, and Needed Infrastructure Improvements (continued)

School System	Grades Served	2015-16 Enrollment*	2016-17 Enrollment*	2015-16 Long-Term Debt	Long-Term Debt Per Student	2016-17 Infrastructure Needs	Infrastructure Needs Per Student
Marion County	K-12	4,030	3,992	36,399,000	\$9,033	43,905,813	\$10,999
Richard City SSD	K-12	275	251	2,812,000	\$10,218	0	\$0
Monroe County	K-12	5,353	5,344	55,300,000	\$10,331	66,725,853	\$12,486
Sweetwater	K-8	1,532	1,517	3,722,000	\$2,429	4,235,000	\$2,792
Obion County	K-12	3,411	3,299	11,773,000	\$3,451	175,000	\$53
Union City	K-12	1,565	1,608	4,235,000	\$2,707	7,902,208	\$4,915
Rhea County	K-12	4,248	4,214	40,626,000	\$9,565	484,000	\$115
Dayton	K-8	821	827	1,200,000	\$1,462	0	\$0
Roane County**	K-12	6,583	6,472	11,442,000	\$1,738	58,467,099	\$9,033
Rutherford County	K-12	42,650	43,789	287,751,000	\$6,747	466,171,186	\$10,646
Murfreesboro	K-6	7,981	8,015	44,470,000	\$5,572	32,850,000	\$4,098
Scott County	K-12	2,840	2,767	25,307,000	\$8,910	5,860,000	\$2,118
Oneida SSD	K-12	1,219	1,238	1,952,000	\$1,601	75,000	\$61
Shelby County	K-12	115,579	114,495	824,452,000	\$7,133	523,010,383	\$4,568
Arlington	K-12	4,985	5,087	0	\$0	1,664,000	\$327
Bartlett	K-12	8,500	8,691	0	\$0	81,078,200	\$9,329
Collierville	K-12	8,021	8,290	93,485,000	\$11,655	109,256,750	\$13,180
Germantown	K-12	5,727	5,877	12,000,000	\$2,095	18,590,000	\$3,163
Lakeland	K-8	901	944	0	\$0	84,000	\$89
Millington	K-12	2,539	2,544	0	\$0	53,349,000	\$20,969
Sullivan County	K-12	9,899	9,650	36,521,000	\$3,689	154,648,900	\$16,027
Bristol	K-12	3,966	3,956	11,971,000	\$3,019	97,915,549	\$24,751
Kingsport	K-12	7,151	7,333	0	\$0	33,850,000	\$4,616
Washington County	K-12	8,596	8,447	72,953,000	\$8,486	66,942,500	\$7,925
Johnson City	K-12	7,772	7,723	11,280,000	\$1,451	38,016,000	\$4,922
Williamson County	K-12	36,303	37,661	396,291,000	\$10,916	523,197,000	\$13,892
Franklin SSD	K-8	3,438	3,538	46,142,000	\$13,421	27,174,943	\$7,680
Wilson County	K-12	17,206	17,693	223,995,000	\$13,018	833,728,500	\$47,123
Lebanon SSD	K-8	3,552	3,537	25,075,000	\$7,060	25,000,000	\$7,068
<b>Totals</b>		<b>467,116</b>	<b>468,140</b>	<b>\$ 3,021,127,000</b>	<b>\$6,468</b>	<b>\$ 3,635,946,139</b>	<b>\$7,767</b>

Source: US Department of Education, National Center for Education Statistics, Common Core of Data (CCD), "Local Education Agency (School District) Universe Survey"; Tennessee Department of Education, Average Daily Membership (ADM); Federal Reserve Bank of St. Louis, Government Consumption Price Index.

Note: The number of school systems is small and can skew data (e.g. data for the 14 special school districts is more volatile because one project at one school system in a given year can dramatically move the line in the graph). Carroll County was excluded from the analysis because of its uniqueness.

\*Enrollment as a measure of Average Daily Membership (ADM)

\*\*Franklin and Roane counties are considered multi-system counties because they contain city systems that cross county lines.

## Appendix G: Basic Education Program State Share with System-level Fiscal Capacity, Difference from Actual, Fiscal Year 2017-18

System	Actual BEP State Share	BEP State Share with System-level Fiscal Capacity	Difference
Anderson County	\$ 31,410,000	\$ 33,581,866	\$ 2,171,866
Clinton City	4,486,000	3,435,533	(1,050,467)
Oak Ridge City	21,085,000	17,539,875	(3,545,125)
Bedford County	47,624,000	48,336,570	712,570
Benton County	11,979,000	12,740,666	761,666
Bledsoe County	11,910,000	12,285,047	375,047
Blount County	46,070,000	48,109,878	2,039,878
Alcoa City	8,223,000	6,277,668	(1,945,332)
Maryville City	21,382,000	17,003,236	(4,378,764)
Bradley County	47,266,000	49,202,121	1,936,121
Cleveland City	27,666,000	23,150,092	(4,515,908)
Campbell County	29,050,000	30,856,031	1,806,031
Cannon County	11,285,000	11,580,945	295,945
Carroll County	1,777,000	2,268,838	491,838
H Rock-Bruceton SSD	3,805,000	3,767,223	(37,777)
Huntingdon SSD	6,896,000	6,788,688	(107,312)
McKenzie SSD	7,244,000	7,032,321	(211,679)
South Carroll Co SSD	1,966,000	1,893,223	(72,777)
West Carroll Co SSD	5,252,000	5,057,951	(194,049)
Carter County	29,993,000	32,025,076	2,032,076
Elizabethton City	13,303,000	12,495,926	(807,074)
Cheatham County	33,530,000	33,554,512	24,512
Chester County	17,078,000	17,458,866	380,866
Claiborne County	24,176,000	25,717,440	1,541,440
Clay County	6,409,000	6,853,166	444,166
Cocke County	23,996,000	25,817,259	1,821,259
Newport City	3,518,000	3,128,551	(389,449)
Coffee County	21,547,000	22,679,893	1,132,893
Manchester City	7,087,000	6,360,331	(726,669)
Tullahoma City	16,108,000	13,825,327	(2,282,673)
Crockett County	12,386,000	12,952,704	566,704
Alamo City	3,796,000	3,804,788	8,788
Bells City	2,391,000	2,346,343	(44,657)
Cumberland County	31,989,000	34,372,457	2,383,457
Davidson County	300,621,000	295,793,399	(4,827,601)
Decatur County	8,888,000	9,288,307	400,307
DeKalb County	15,902,000	16,873,786	971,786
Dickson County	41,261,000	40,845,208	(415,792)
Dyer County	19,613,000	20,185,900	572,900
Dyersburg City	13,442,000	12,111,482	(1,330,518)
Fayette County	13,094,000	14,105,159	1,011,159
Fentress County	11,771,000	12,677,847	906,847



### Appendix G: Basic Education Program State Share with System-level Fiscal Capacity, Difference from Actual, Fiscal Year 2017-18 (continued)

System	Actual BEP State Share	BEP State Share with System-level Fiscal Capacity	Difference
Franklin County	25,807,000	27,093,892	1,286,892
Humboldt City	6,604,000	6,463,424	(140,576)
Milan SSD	11,310,000	11,109,011	(200,989)
Trenton SSD	7,396,000	7,264,487	(131,513)
Bradford SSD	3,252,000	3,255,271	3,271
Gibson County SSD	21,410,000	20,650,830	(759,170)
Giles County	18,836,000	19,638,442	802,442
Grainger County	21,513,000	22,254,693	741,693
Greene County	32,927,000	35,609,376	2,682,376
Greeneville City	14,050,000	12,937,274	(1,112,726)
Grundy County	13,103,000	13,931,989	828,989
Hamblen County	51,973,000	53,554,533	1,581,533
Hamilton County	154,728,000	161,652,329	6,924,329
Hancock County	6,785,000	7,201,304	416,304
Hardeman County	20,673,000	21,832,101	1,159,101
Hardin County	15,081,000	16,335,349	1,254,349
Hawkins County	36,192,000	38,566,329	2,374,329
Rogersville City	3,502,000	3,237,457	(264,543)
Haywood County	16,256,000	17,314,788	1,058,788
Henderson County	21,852,000	22,373,778	521,778
Lexington City	4,532,000	3,863,599	(668,401)
Henry County	15,382,000	15,869,799	487,799
Paris SSD	8,345,000	7,876,754	(468,246)
Hickman County	19,934,000	20,730,934	796,934
Houston County	8,410,000	8,738,471	328,471
Humphreys County	13,802,000	14,560,997	758,997
Jackson County	9,591,000	10,492,095	901,095
Jefferson County	36,102,000	37,598,035	1,496,035
Johnson County	11,451,000	12,395,487	944,487
Knox County	207,876,000	213,497,555	5,621,555
Lake County	5,027,000	5,361,929	334,929
Lauderdale County	24,672,000	25,875,293	1,203,293
Lawrence County	35,994,000	36,915,568	921,568
Lewis County	9,260,000	9,489,883	229,883
Lincoln County	20,279,000	21,427,335	1,148,335
Fayetteville City	7,471,000	7,062,297	(408,703)
Loudon County	19,375,000	19,865,164	490,164
Lenoir City	9,819,000	9,356,786	(462,214)
McMinn County	26,091,000	27,511,261	1,420,261
Athens City	7,702,000	6,364,854	(1,337,146)
Etowah City	1,826,000	1,687,593	(138,407)
McNairy County	23,837,000	24,994,874	1,157,874

### Appendix G: Basic Education Program State Share with System-level Fiscal Capacity, Difference from Actual, Fiscal Year 2017-18 (continued)

System	Actual BEP State Share	BEP State Share with System-level Fiscal Capacity	Difference
Macon County	23,006,000	23,640,090	634,090
Madison County	48,849,000	51,495,180	2,646,180
Marion County	19,725,000	20,566,819	841,819
Richard City SSD	1,278,000	1,274,634	(3,366)
Marshall County	28,423,000	28,590,737	167,737
Maury County	57,221,000	56,537,239	(683,761)
Meigs County	10,248,000	10,859,077	611,077
Monroe County	27,006,000	28,657,042	1,651,042
Sweetwater City	8,054,000	7,912,342	(141,658)
Montgomery County	164,055,000	166,095,202	2,040,202
Moore County	3,869,000	4,051,111	182,111
Morgan County	19,389,000	20,066,871	677,871
Obion County	17,085,000	17,800,804	715,804
Union City	8,124,000	7,498,803	(625,197)
Overton County	16,787,000	17,468,482	681,482
Perry County	6,310,000	6,776,877	466,877
Pickett County	4,063,000	4,317,386	254,386
Polk County	12,928,000	13,621,994	693,994
Putnam County	49,279,000	51,485,963	2,206,963
Rhea County	23,065,000	24,296,774	1,231,774
Dayton City	4,524,000	3,999,522	(524,478)
Roane County	29,298,000	32,155,556	2,857,556
Robertson County	59,781,000	59,160,062	(620,938)
Rutherford County	205,168,000	194,132,955	(11,035,045)
Murfreesboro City	40,636,000	28,139,293	(12,496,707)
Scott County	16,684,000	17,456,214	772,214
Oneida SSD	7,170,000	7,290,544	120,544
Sequatchie County	12,439,000	12,786,903	347,903
Sevier County	39,031,000	38,376,854	(654,146)
Shelby County	594,460,000	628,880,220	34,420,220
Arlington City	20,558,000	18,350,490	(2,207,510)
Bartlett City	39,862,000	35,300,424	(4,561,576)
Collierville City	38,218,000	32,006,750	(6,211,250)
Germantown City	26,317,000	20,822,646	(5,494,354)
Lakeland City	6,881,000	6,422,021	(458,979)
Millington City	12,593,000	12,479,322	(113,678)
Smith County	16,778,000	17,239,625	461,625
Stewart County	11,399,000	12,164,863	765,863
Sullivan County	38,783,000	43,424,337	4,641,337
Bristol City	15,583,000	13,757,445	(1,825,555)
Kingsport City	29,395,000	24,057,027	(5,337,973)
Sumner County	141,290,000	138,861,960	(2,428,040)

**Appendix G: Basic Education Program State Share with System-level Fiscal Capacity, Difference from Actual, Fiscal Year 2017-18 (continued)**

System	Actual BEP State Share	BEP State Share with System-level Fiscal Capacity	Difference
Tipton County	61,412,000	61,443,303	31,303
Trousdale County	7,738,000	7,525,385	(212,615)
Unicoi County	12,454,000	13,153,912	699,912
Union County	22,755,000	23,476,890	721,890
Van Buren County	4,268,000	4,590,095	322,095
Warren County	35,102,000	37,063,662	1,961,662
Washington County	33,413,000	36,808,739	3,395,739
Johnson City	30,687,000	23,827,574	(6,859,426)
Wayne County	13,316,000	14,124,318	808,318
Weakley County	22,439,000	23,470,369	1,031,369
White County	21,848,000	22,790,040	942,040
Williamson County	125,538,000	112,206,650	(13,331,350)
Franklin SSD	13,387,000	8,642,408	(4,744,592)
Wilson County	77,781,000	73,804,980	(3,976,020)
Lebanon SSD	16,489,000	12,395,926	(4,093,074)
<b>TOTAL</b>	<b>\$ 4,502,542,000</b>	<b>\$ 4,515,597,429</b>	<b>\$ 13,055,429</b>
<b>Hold-harmless</b>			<b>\$ (121,617,544)</b>

Source: TACIR staff calculations and the Tennessee Department of Education.

## Appendix H: New Local Education Agency Operation Application



### NEW LOCAL EDUCATION AGENCY (LEA) OPERATION APPLICATION (MUNICIPAL/CITY)

This application and attachments must be completed by the LEA and is required to be approved by the Tennessee Department of Education (TDOE) before a newly created municipal or city LEA (New LEA) may receive a school system number or commence instruction. Upon completion, please submit to Christy Ballard, TDOE General Counsel, at [Christy.Ballard@tn.gov](mailto:Christy.Ballard@tn.gov) or 9<sup>th</sup> Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243.

#### LEA INFORMATION:

<b>LEA Name:</b>	<b>Date:</b>
<b>City:</b>	<b>County:</b>
<b>Director of Schools:</b>	<b>School Board Chair:</b>
<b>LEA Phone Number:</b>	<b>LEA Facsimile:</b>
<b>LEA Address:</b>	<b>City and Zip Code:</b>
<b>Person Completing Form (if different from above):</b>	<b>Phone Number of Person Completing Form:</b>
<b>E-mail Address of Person Submitting Form:</b>	

Please provide the following documentation:

1. Include, as Attachment A, documentation authorizing the creation and funding of the school system, including the certified results of the referendum election and any additional documentation indicating the willingness of the local citizens to support the school system and raise local funds<sup>1</sup>, which, together with school funds received from the state, county and other sources, shall be sufficient to provide adequate educational opportunities.
2. Include, as Attachment B, the proposed teacher personnel plan for safeguarding the rights and privileges of teachers protected by Tenn. Code Ann. §49-5-203, which mandates such rights and privileges not be impaired, interrupted or diminished during the creation of a city school system. Specifically, the plan should address salary, pension or retirement benefits, sick leave accumulation and tenure status.
3. Include, as Attachment C, the *TDOE School and Program Approval* form for each of the proposed schools that will comprise the school system. The form may be found on the department's website at <http://www.tn.gov/education/dataquality/index.shtml>.

<sup>1</sup> Per Tennessee State Board of Education Rule 0520-1-8-.01, the minimum local funding required is an amount "in addition to the amount required to be raised by the county at least equal to that which a fifteen cents (\$.15) tax levy on each One Hundred Dollars (\$100.00) of taxable property for the current year in said city school district would produce if the same were all collected."

**Please include the requested information in the space provided:**

1. Any newly created city LEA must have a scholastic population within its boundaries that will assure an enrollment of at least 1,500 pupils in its public schools, or must have at least 2,000 pupils presently enrolled in the proposed school system.<sup>2</sup>
2. Any newly created city LEA must employ a full-time director of schools who shall meet the legal and regulatory requirements for county and city directors of schools, and who shall be paid an annual salary of at least the amount required to be paid to a county director of schools having the same training and experience under the state salary schedule.<sup>3</sup>

**Please affirm or deny the following statements:**

1. New LEA school plant facilities meet the minimum requirements and standards of the State Board of Education, which require compliance with rules, regulations and codes of the city, county and state regarding planning of new buildings, alterations and safety.<sup>4</sup>

Affirmed \_\_\_\_\_ Denied \_\_\_\_\_

2. New LEA will employ teachers whose average training is commensurate with the average training of the teachers in the school system, or systems, out of which the new system is to be formed.<sup>5</sup>

Affirmed \_\_\_\_\_ Denied \_\_\_\_\_

**ASSURANCES:**

By signing below, I certify that all the information provided above, and in the attached sections, is accurate and complete to the best of my knowledge and that the New LEA meets and will continue to meet all requirements in law and state board of education rule to commence instruction. In addition, I certify that the system and its management have the necessary expertise, capacity and ability to understand and follow all applicable laws, rules, regulation and policies relative to the operation of public schools. I further understand that if any of the above information changes, I am obligated to update the information with the TDOE via the same process presented above.

<b>Director of Schools Signature of Assurances:</b>	
<b>Print Director's Name:</b>	
<b>Date:</b>	

<b>Board of Education Chair Signature of Assurances:</b>	
<b>Print Board of Education Chair's Name:</b>	
<b>Date:</b>	
<b>Date of Board of Education Approval:</b>	

<sup>2</sup> See Tenn. Code Ann. §49-2-106 and Tennessee State Board of Education Rule 0520-1-8-.01.

<sup>3</sup> Tennessee State Board of Education Rule 0520-1-8-.01.

<sup>4</sup> See Tennessee State Board of Education Rule 0520-1-4-.01.

<sup>5</sup> See Tennessee State Board of Education Rule 0520-1-8-.01.

*It is hereby determined that the New LEA has met the provisions of Tenn. Code Ann. §49-2-127 relative to the creation of a city school system and has demonstrated its general readiness to commence instruction.*

\_\_\_\_\_  
Kevin Huffman, Commissioner

\_\_\_\_\_  
Date

**FINAL Authorization Approval:**

<b>FINAL School System Number Assigned:</b>	
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