



Illinois State Board of Education

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Chairman

Christopher A. Koch, Ed.D.
State Superintendent of Education

MEMORANDUM

TO: Superintendent Chris Koch
Linda Riley Mitchell

FROM: Deb Vespa
Renee Vilatte

SUBJECT: Article 11E Petition

DATE: December 22, 2011

Attached is the record of an Article 11E petition denied by Regional Superintendent Janet Ulrich on December 1, 2011. This memo summarizes the record.

The State Superintendent's decision approving or denying the petition must be made by December 23, 2011.

Petition

A petition to reorganize four school districts was filed in the Office of the Regional Superintendent of Schools of Alexander/Johnson/Massac/Pulaski/Union counties on 10/11/11. An amended petition, signed by 9 of the 10 Committee of Ten members, was filed 10/27/11. The amended petition requests the formation of an optional elementary unit district from the territory of Lick Creek CCSD 16, an elementary district serving grades K-8; Anna CCSD 37, an elementary district serving grades K-8; Jonesboro CCSD 43, an elementary district serving grades K-8; and Anna Jonesboro CHSD 81, a high school district serving grades 9-12. This petition represents the first time the formation of an optional elementary unit district has been requested since the enactment of Article 11E in 2006.

An optional elementary unit district is a type of unit district formed from a high school district and potentially less than all of its elementary feeder districts. If this petition advances to a referendum vote, an optional elementary unit district will be formed if a majority of those voting in the high school district approve the referendum question and a majority of those voting in at least one elementary district approve the referendum question. If approved, the new district would be created from the territory of Anna Jonesboro HSD for high school purposes and the territory of whichever of the Lick Creek, Anna, and/or Jonesboro elementary districts approve

the referendum vote for elementary purposes. If some, but not all, of the elementary districts approve the referendum vote, any elementary district that does not approve the referendum vote will remain an independent elementary district. Its 8th grade graduates will attend high school in the new optional elementary unit district in the same manner as those students attend the current Anna Jonesboro HSD.

There are technically seven different outcomes that could arise from the formation of an optional elementary unit district from among these four districts.

- Anna Jonesboro HSD + Lick Creek
- Anna Jonesboro HSD + Anna
- Anna Jonesboro HSD + Jonesboro
- Anna Jonesboro HSD + Lick Creek + Anna
- Anna Jonesboro HSD + Lick Creek + Jonesboro
- Anna Jonesboro HSD + Anna + Jonesboro
- Anna Jonesboro HSD + Lick Creek + Anna + Jonesboro

Throughout the hearing record “eight” outcomes are mentioned. The “eighth” outcome would occur if none of the districts approve the referendum vote, leaving the four districts as they exist now.

The amended petition requests the proposition to create a new optional elementary unit district be put to the voters at the March 20, 2012, election. If this petition advances to a referendum vote and is successful, the school board for the new district would be elected at the November 6, 2012, election. The new district would be effective July 1, 2013, for the 2013-2014 school year.

ISBE Statutory Obligation in the Review Process

105 ILCS 5/11E-50(b) states:

The State Superintendent shall review the petition, the record of the hearing, and the written order of the regional superintendent, if any.

The statute is plain and does not allow for anything other than a review of the record below; consideration of additional and outside materials is not appropriate.

Therefore, the following documents are not properly considered as they are not part of the record below:

1. Newspaper article entitled, “Important to have facts regarding local school reorganization petition,” by Brandon K. Wright and published in the Gazette-Democrat on Thursday, October 27, 2011;
2. December 12, 2011 email from John Bigler to State Superintendent Chris Koch with attached post-hearing brief;
3. December 12, 2011 email from State Board member Andrea Brown to State Superintendent Chris Koch and referenced newspaper article entitled, “Time to thin the administrative herd,” posted December 11, 2011 in The Southern;

4. December 12, 2011 email from John Bigler to State Superintendent Chris Koch with attached email from Janet Ulrich to the elementary superintendents; and,
5. Regional Superintendent Documents 1, 2, school financial profiles, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and all documents (unnumbered) regarding 5 year data trends. Regional Superintendent Document 3 (ISBE's GSA estimates) was entered into the record and is properly considered. (PEXh6)

However, ISBE staff agrees that it is acceptable to use raw data contained in the record to make factual findings and draw conclusions that may not have been made or drawn during the process below. For example, it would be appropriate for ISBE staff to consider tax rate information presented into evidence and conclude whether the rate for a particular district would increase or decrease in any of the seven possible resulting unit districts, provided that staff can do so without injecting new or additional information into the record.

The statutory prerequisites that the State Superintendent must initially consider are those contained in 105 ILCS 5/11E-30(c):

A high school district and 2 or more elementary districts that collectively are substantially coterminous may seek to organize into an optional elementary unit district as provided in this Article, provided that territory comprising at least 51% of the equalized assessed valuation of the high school district is subject to a combined high school and elementary maximum annual authorized tax rate for educational purposes of 4.0% or less.

Next, the factors on the merits which the State Superintendent must consider are the same as those used by the Regional Superintendent:

[T]he State Superintendent shall take into consideration the school needs and conditions of the affected districts and in the area adjacent thereto, the division of funds and assets that will result from the action described in the petition, the best interests of the schools of the area, and the best interests and the educational welfare of the pupils residing therein and, through a written order, either approve or deny the petition.

105 ILCS 5/11E-50(b).

Substantially Coterminous and Combined Education Rate of 4.0% or Less

Substantially Coterminous

Pursuant to 105 ILCS 5/11E-10, "Substantially coterminous" means that a high school district and one or more elementary districts share the same boundaries or share the same boundaries except for territory encompassing, for a particular district, (i) less than 25% of the land area of the district, (ii) less than 8% of the student enrollment of the district, and (iii) less than 8% of the equalized assessed valuation of the district.

Anna Jonesboro HSD does not share the same boundaries as the combination of the Lick Creek, Anna, and Jonesboro elementary districts. A portion of Buncombe CCSD 43 feeds into Anna Jonesboro HSD.

Land Area – The land area of the portion of Buncombe common to Anna Jonesboro HSD must be less than 25% of the total land area of Anna Jonesboro HSD. It is unknown the exact land area of the portion of Buncombe common to Anna Jonesboro HSD.

Per the 2007-08 Area of School District in Square Miles report from ISBE Data and Analysis and Progress Reporting Division

A-J HSD area	137.00
25% of A-J area	34.25
Buncombe area	31.00

25% of the land area of Anna Jonesboro HSD would be 34.25 square miles. The total land area of Buncombe is only 31.00 square miles. Thus, the land area of the portion of Buncombe common to Anna Jonesboro HSD must be less than 25% of the total land area of Anna Jonesboro HSD.

Student Enrollment – the number of students attending Anna Jonesboro HSD living within the portion of Buncombe common to Anna Jonesboro HSD must be less than 8% of the total student enrollment of Anna Jonesboro HSD. It is unknown the exact student enrollment of the Anna Jonesboro HSD students living in the portion of Buncombe common to Anna Jonesboro HSD.

Per the 2010-11 Fall Housing Report Enrollment

A-J HSD Enrollment	530
8% of A-J Enrollment	42.4

2010-11 high school students residing in Buncombe territory were Buncombe elementary district 8th graders 2006-07 through 2009-2010

Year Grade 8	Enrollment
2006-07	7
2007-08	5
2008-09	4
2009-10	8
Total Estimated 9-12 Buncombe enrollment in 2010-11	24

8% of the student enrollment of Anna Jonesboro HSD would be 42 students. Estimated high school enrollment living in the entire territory of Buncombe is 24 students. Thus, the high school student enrollment living within the portion of Buncombe common to Anna Jonesboro HSD must be less than 8% of the total student enrollment of Anna Jonesboro HSD.

Equalized Assessed Valuation (EAV) – the EAV of the portion of Buncombe common to Anna Jonesboro HSD must be less than 8% of the total EAV of Anna Jonesboro HSD. The amount of EAV from Anna Jonesboro HSD greater than the combined EAV of the Lick Creek, Anna, and Jonesboro elementary districts would equal the EAV of the portion of Buncombe common to Anna Jonesboro HSD.

Per the 2011-2012 General State Aid Entitlement, 2009 EAV

Lick Creek	\$14,224,712
Anna	\$77,886,883
Jonesboro	\$24,377,361
Total EL EAV	\$116,488,956
A-J HSD	\$116,492,436
Additional EAV in HS over EL	\$3,480

The EAV of the portion of Buncombe common to Anna Jonesboro HSD is \$3,480, which is less than 1% of the total EAV of Anna Jonesboro HSD.

Conclusion: As the portion of Buncombe common to Anna Jonesboro HSD is less than 25% of the total land area of Anna Jonesboro HSD, less than 8% of the total student enrollment of Anna Jonesboro HSD, and less than 8% of the total EAV of Anna Jonesboro HSD, the districts of Anna Jonesboro CHSD 81, Lick Creek CCSD 16, Anna CCSD 37, and Jonesboro CCSD 43 are substantially coterminous.

Combined Education Tax Rates

Section 11E-30(c) of the School Code requires that "...territory comprising at least 51% of the equalized assessed valuation of the high school district is subject to a combined high school and elementary maximum annual authorized tax rate for educational purposes of 4.0% or less."

2009 Education Tax Rates from ISBE General State Aid System

Lick Creek	0.95392
Anna	0.98371
Jonesboro	1.07279
A-J HSD	0.82454

Elementary Territory and High School Territory Combined

Lick Creek + HSD	1.77846
Anna + HSD	1.80825
Jonesboro + HSD	1.89733

Conclusion: 100% of the high school territory is subject to a combined high school and elementary education rate of 4.0% or less.

Because both statutory prerequisites have been met, the formation of an optional elementary unit district may be requested.

Petition Jurisdiction and Hearing Procedures

A hearing on the petition was held on November 22, 2011.

Jurisdiction of the Petition by the Regional Superintendent

Admittedly, the prayer in the original petition presented to voters for signature was incorrect in that it represented that the boards of education brought the petition when in fact, individual citizens petitioned. (ROEExhI; TR 78) Additionally, the original petition was erroneous with respect to the type of reorganization requested. However, the petition was subsequently amended to change both items. While Petitioners did not circulate the amended petition for new signatures (ROEExhVI), no evidence was presented that voters misunderstood what they were signing.

Opponent School Districts raised a concern that jurisdiction was improper because the signature pages did not strictly comply with the Election Code at 10 ILCS 5/28-3 in that cities and counties were not included next to signatures. (TR 72-73 and 79-82) However, because the street addresses and school districts were listed beside the signatures, one could largely deduce the towns and counties in which the voters lived. (ROEExhI) Opponent Lick Creek School District also objected to the circulator statements as improper. (TR 78, 82) The objection is well taken but arguably puts form over substance.

Pursuant to 105 ILCS 5/11E-35, the petition meets all other statutory requirements. (TR 9-10)

Hearing Procedure

There are no concerns with the hearing procedures in this instance. The Regional Superintendent fully complied with the notice requirements contained in 105 ILCS 5/11E-40. There are no objections in the record regarding lack of proper notice or publication. Further, a public hearing was properly conducted in accordance with 105 ILCS 5/11E-45. To the extent the record did not provide sufficient information for the Regional Superintendent to weigh the statutory factors she was required to consider, it was proper for her to try to elicit that information through testimony at the hearing.

Petitioners characterized the hearing as simply a determination that the petition is “legal” and meets the standards or elements in the statute, but not as a hearing on the merits of the petition. (TR 14) If this were the case, the Regional Superintendent would be re-evaluating whether she

properly had jurisdiction and the petition might fail as not being in substantial compliance with applicable statutes. Already having found jurisdiction exists, and understanding that the parties may challenge jurisdiction, the Regional Superintendent at this point in the process was clearly holding a hearing on the merits. She was required at this hearing to weigh the evidence presented on each of the statutory factors in order to grant or deny the petition. 105 ILCS 5/11E-50(a).

Both Petitioners and Opponent School Districts raised due process objections in not being allowed to cross examine witnesses. (TR 74, 84-85) However, as there are no procedural requirements in statute for the conduct of these hearings, such an objection must not be allowed to prevent consideration of the merits.

With respect to allowing Petitioner's pre-hearing brief into the record, because the Regional Superintendent was not governed by any particular hearing procedure, she was within her discretion to accept or not accept such a brief. Likewise, it was within her discretion to allow post-hearing briefs by the parties. However, there is no evidence in the record that she made such an allowance and therefore, post-hearing briefs are not part of the record below.

Regional Superintendent Exhibits

The Regional Superintendent's order was entered on December 1, 2011, and received by ISBE on December 2, 2011 (Order)

The following exhibits were entered into the hearing record by the Regional Superintendent

- ROE Exhibit 1: Original Petition / Revised Original Petition (ROEExhI)
- ROE Exhibit 2: Mailings of copy of petition and hearing notice (ROEExhII)
- ROE Exhibit 3: Concerns with reorganization petition (ROEExhIII)
- ROE Exhibit 4: Location of affected districts (ROEExhIV)
- ROE Exhibit 5: First attempt at hearing notice (ROEExhV)
- ROE Exhibit 6: First Amended Petition (ROEExhVI)
- ROE Exhibit 7: Mailings of copy of first amended petition (ROEExhVII)
- ROE Exhibit 8: Mailings of hearing cancellation and rescheduling notice (ROEExhVIII)
- ROE Exhibit 9: Hearing notice (ROEExhIX)
- ROE Exhibit 10: Publication certification (ROEExhX)
- ROE Exhibit 11: Request to Union County Clerk for signature verification (ROEExhXI)
- ROE Exhibit 12: Petition signature verification (ROEExhXII)
- ROE Exhibit 13: Letter to Committee of Ten that petition, as amended or filed, is proper and in compliance (ROEExhXIII)

A written transcript of the November 22 hearing was submitted to ISBE as part of the hearing record (TR)

Petitioners' Case

The petitioners entered the following exhibits into the record:

- Petitioners Exhibit 1: Reorganization Feasibility Study completed by Brandon K. Wright, attorney with Miller, Tracy, Braun, Funk & Miller, Ltd, funded by Bill Cunningham and William R. Cunningham Investments, Inc. (PEXh1)
- Petitioners Exhibit 2: Reorganization Feasibility Study completed by Dr. William H. Phillips, Dr. Scott L. Day, and Dr. Leonard R. Bogle of the Consulting & Resource Group, funded through the Illinois State Board of Education (ISBE) Reorganization Feasibility Study program (PEXh2)
- Petitioners Exhibit 5: Pre-hearing brief responding to Regional Superintendent's concerns on petition signature sheets (PEXh5)
- Petitioners Exhibit 6: Draft forecast of General State Aid (GSA) revenue for each of the potential seven optional elementary unit district outcomes, provided by ISBE at request of Regional Superintendent and district superintendents (PEXh6)

[NOTE: there was no mention or explanation for the reason exhibit numbers jumped from 2 to 5. The transcript reflects the petitioners entering only Exhibit 1 (TR 15), Exhibit 2 (TR 16), Exhibit 5 (TR 17), and Exhibit 6 (TR 68)]

District Information

Two reorganization studies were completed for the four districts and entered into the record by the petitioners. (Wright study PEXh1; Phillips study PEXh2) The following information on the districts included on the petition can be derived from these studies.

- Lick Creek had 2009-10 student enrollment of 117 with 39.3% low income and 11.4% mobility; Anna had 2009-10 student enrollment of 650 with 30.6% low income and 24.9% mobility; Jonesboro had 2009-10 student enrollment of 396 with 52.5% low income and 18.4% mobility; and Anna Jonesboro HSD had 2009-10 student enrollment of 532 with 35.7% low income and 16% mobility. (PEXh1 17-18)
- Enrollment projections show minimal but steady growth over the next five years for the Anna and Jonesboro elementary districts but a substantial decrease for Lick Creek. (PEXh2 154-160)
- Based on the FY 2010 School District Financial Profile, Lick Creek and Anna Jonesboro HSD were in Recognition while Anna and Jonesboro were in Review. (PEXh1 66-74)
- 2010 Operating Expense per Pupil was \$8,106.81 for Lick Creek, \$8,292.55 for Anna, \$9,189.12 for Jonesboro, and \$9,606.47 for Anna Jonesboro HSD. (PEXh1 63)
- Average class sizes for 2010 ranged from 7-18 for Lick Creek, 19-25.3 for Anna, 18.5-26 for Jonesboro, and 17.1 for Anna Jonesboro HSD. (PEXh1 22)
- For 2010, the three elementary districts made AYP in both reading and math. (PEXh1 35)
For 2010, Anna Jonesboro HSD did not make AYP in either reading or math. (PEXh1 40)

Testimony

John Bigler, Committee of Ten member and attorney for the Committee of Ten, provided opening remarks prior to the petitioners' testimony. The petitioners' testimony was provided by Brandon Wright, author of one of the reorganization studies entered into the record, in the areas of curriculum, facilities, transportation, finance, and school needs. Joyce Crews, retired teacher from Anna Jonesboro CHSD 81 and later named to Committee of Ten to replace a member who resigned, testified as to curriculum advantages.

Curriculum

Petitioners stated in testimony that a reorganized district would be better able to meet student needs through an aligned curriculum, aligned both vertically and horizontally. (TR 21) The petitioners believe the high school could see improvement from an aligned K-12 curriculum over a separate K-8 and 9-12 curriculum. (TR 22) The petitioners reported that a benefit of the reorganization would be that students moving from one building to another would get the same type of curriculum in the same order. (TR 62) The petitioners testified that curriculum alignment among the current districts is not happening and previous attempts for alignment have not been successful. (TR 53, 61, 66) The Wright study reflected that an aligned curriculum would be beneficial: "...the research suggests that the academic health of the students graduating from AJCHS would be improved through a properly aligned curriculum and meaningful articulation between the districts." (PExh1 52) The Phillips feasibility study also found that articulation would improve with a full unit district (all four districts) because the view of curriculum would shift from several segments to a single comprehensive PK-12 curriculum. This would occur in two ways – the curriculum in each subject across PK to 12 is sequenced from grade to grade and the focus of the curriculum can be considered from the entire spectrum of state expectations for learning. (PExh2 150)

The Phillips study listed the curricular strengths of the four individual districts. (PExh2 132-135) The districts are served through the Tri-County Special Education Cooperative for special education services and there would be no change to services for special education students. (PExh2 133) Anna Jonesboro HSD vocational courses are offered through the Five County Vocational Center. (PExh2 134-135) Verbal testimony was not given during the hearing concerning combining the curricular programs beyond the benefits of an aligned curriculum in a unit district.

The Wright study listed the various extra-curricular offerings of the four individual districts (PExh1 41-42) but did not make any conclusions on the benefits of combining the extra-curricular programs in a reorganization.

The Wright study and the Phillips study show that the elementary districts continue to meet AYP and do well on the ISAT. (PExh1 35-40 and PExh2 142-146) During the hearing, the Regional Superintendent expressed the belief that the elementary districts' ISAT results shows their curriculum is already aligned to some degree to the State's indicators of meeting the learning standards. (TR 64) Both the Wright study and the Phillips study show that the high school district has not met AYP (PExh1 40) and the PSAE results compare poorly to State averages (PExh2 148). The record does not indicate how vertical alignment would help the high school district meet State standards.

Petitioners also stated that a reorganized district will better serve the highly mobile students of the existing districts. (TR 21, 55) The Wright study concluded "...a unified district with an aligned curriculum could significantly decrease the academic disruption caused by a move (for example, from Anna to Jonesboro) and improve student achievement for the students so affected." (PExh1 49) The mobility rates included in the Wright study were total mobility rate for each district. The Regional Superintendent Order stated the mobility rate among the three elementary districts was 0.7% for Anna, 3.0% for Jonesboro, and Lick Creek's rate was

“pending”. (Order 4) However, mobility rates among the three elementary districts were not presented into evidence.

All verbal testimony presented on curriculum appeared to detail results of a consolidation of the four individual dual districts into a unit district, which would be the same result as an optional elementary unit district where the Lick Creek, Anna, and Jonesboro elementary district territories all approved the referendum question. The Wright study did not provide specifics on potential curricular changes or benefits that could be expected from any of the other potential optional elementary unit district outcomes. The Phillips study focused mainly on the consolidation of the four individual dual districts into a unit district but included the following statement appearing to be relative to an optional elementary unit district: “A PK-12 reorganized district of any combination of districts would have many more opportunities for articulation with the existing institute and school improvement days already built into the calendar.” (PEXh2 139)

Facilities

Petitioners testified that a new district would need to keep current attendance centers open and as close to current form as possible. (TR 22) The Wright study backed up the verbal testimony on facilities, stating “...building closures in these districts would be imprudent for several reasons...” due to “...limited space among the elementary districts to absorb the students from any other building.” (PEXh1 96)

Transportation

Petitioners testified that due to the current districts already being geographically connected, students in the reorganization will not have to be transported greater distances as in other consolidations. (TR 23) The Wright study stated that a combined transportation system could result in increased efficiencies and decreased redundancies. (PEXh1 101) This was echoed in the Phillips study. (PEXh2 171)

The verbal testimony and both studies discussed transportation in the context of consolidation of the four individual dual districts into a unit district, which would be the same result as an optional elementary unit district where the Lick Creek, Anna, and Jonesboro elementary district territories all approved the referendum question. Specifics were not provided on combined transportation in any of the other potential optional elementary unit district outcomes.

Finance

Petitioners stated in testimony that the ability of the new district to continue to meet financial needs will be served through the proposed reorganization. (TR 24) Details of tax rates, potential decrease in state funding, and proposed expenditure savings were included in verbal testimony at the hearing and within the Wright study.

Total combined elementary and high school tax rates (TR 34):

Lick Creek: \$3.39

Anna: \$3.73

Jonesboro: \$4.19

Estimated new unit district tax rates for each area (differences due to bonded indebtedness staying within original territory; estimated unit tax rate before bonded indebtedness = \$3.35 per PExh1 80) (TR 34):

Lick Creek: \$3.42

Anna: \$3.73

Jonesboro: \$3.76

Petitioners testified that taxpayers within the Jonesboro territory would likely see a decrease in overall tax rate and taxpayers within the Lick Creek territory would likely see an increase in overall tax rate, while taxpayers within the Anna territory would have approximately the same overall tax rate. (TR 33-36) Detailed testimony on total proposed tax rates was only provided for the consolidation of the four individual dual districts into a unit district, which would be the same result as an optional elementary unit district where the Lick Creek, Anna, and Jonesboro elementary district territories all approved the referendum question. On the potential outcomes in an optional elementary unit district, Mr. Wright verbally testified "...the difference is going to be negligible between each of those scenarios in terms of a possible tax rate..." (TR 33)

Detailed testimony was not provided on how current combined rates for individual funds compare to the rates included in the petition. Taking information included in the Wright study (2008 tax rates used in study) and comparing to the petition results in the following:

2008 Education Rate (PExh1 62):

	Elementary	AJHS	Total
Lick Creek	0.97457	0.82385	1.79842
Anna	1.01279	0.82385	1.83664
Jonesboro	1.06787	0.82385	1.89172

Education Rates included in the petition (ROEExh6 3):

K-8 Purposes = 3.5%

9-12 Purposes = 3.5%

Combined Maximum = 4.0%

2008 Operations and Maintenance Rate (PExh1 62):

	Elementary	AJHS	Total
Lick Creek	0.18742	0.18981	0.37723
Anna	0.20965	0.18981	0.39946
Jonesboro	0.22153	0.18981	0.41134

Operations and Maintenance Rates included in the petition (ROEExh6 3):

K-8 Purposes = 0.55%

9-12 Purposes = 0.55%

Combined Maximum = 0.75%

2008 Transportation Rate (PExh1 62):

	Elementary	AJHS	Total
Lick Creek	0.10495	0.09535	0.2003
Anna	0.08665	0.09535	0.182
Jonesboro	0.17723	0.09535	0.27258

Transportation Rates included in the petition (ROEExh6 4):

K-8 Purposes = 0.12% 9-12 Purposes = 0.12% Combined Maximum = 0.20%

2008 Special Education Rate (PExh1 62):

	Elementary	AJHS	Total
Lick Creek	0.01499	0.01099	0.02598
Anna	0.01554	0.01099	0.02653
Jonesboro	0.01774	0.01099	0.02873

Special Education rates included in the petition (ROEExh6 4):

K-8 Purposes = 0.40% 9-12 Purposes = 0.40% Combined Maximum = 0.80%

With the exception of the Transportation Rates, all other rates listed in the petition are greater than what is currently being taxed (from 2008 data) within the individual territory of the original districts. The Committee of Ten chose to include on the petition a combined unit maximum transportation rate of 0.20%, the permissive unit rate without a referendum. The total combined transportation rate for the Jonesboro territory is more than the combined maximum transportation rate included in the petition. It would be hoped that any efficiencies found in a combined transportation program would offset the potential lesser amount of tax revenue. If not, the new district may have to ask for an increase in the transportation rate through referendum.

The Education, Operations and Maintenance, and Special Education combined unit maximum rates included in the petition were the maximum allowed unit rates with a referendum. The petitioners stated in verbal testimony “The committee of ten could have chosen to set an increase in the maximum tax rate and did not do so.” (TR 30) However, with the exception of the transportation rate, the committee could not have asked for tax rates higher than what was included in the petition as those rates are the maximum allowed with referendum.

With an Education maximum rate of 4.0%, an Operations and Maintenance maximum rate of 0.75%, a Transportation maximum rate of 0.20% and a Special Education maximum rate of 0.80%, there is a possibility the final tax rates levied by a new district will be greater than the estimated new unit tax rates testified to at the hearing. This could happen if the new school board levies taxes up to the maximum rates as included in the petition and approved at referendum.

The Regional Superintendent requested that ISBE calculate seven different General State Aid (GSA) scenarios, matching to the seven possible outcomes of an optional elementary unit district. The results were entered into the record as Petitioners Exhibit 6. Four of the scenarios were estimated to result in a decrease in GSA between \$135,000 and \$165,000 (rounded). The largest decrease was a 3.1% decrease in GSA. Three of the scenarios were estimated to result in an increase in GSA between \$125,500 and \$178,600 (rounded). During the testimony of Brandon Wright for the petitioners, the Regional Superintendent questioned how the potential loss of funding would be made up in a new district. The response included the following, assuming all four districts combine (TR 36-41):

- The incentives are intended to make up any General State Aid loss for 4 years (TR 36, 39-40)

- 4-year window to make decisions on district structure in administrative staff, number of teachers and programming (TR 38)
- Estimated \$350,000 to \$500,000 yearly cost savings including:
 - Change in administrative structure (number of superintendents)
 - Number of special positions (ex: bookkeeper)
 - Duplicative services (ex: audits, legal services, professional memberships, subscriptions, athletic costs, bulk purchases)
 - Coordination of professional development and textbook purchases
 - Increasing insurance risk pool to reduce insurance costs
 - Dollar amount and list included in verbal testimony (TR 41) and Wright study (PEXh1 76-77)

Average salary for the high school is significantly higher than for any of the elementary districts (PEXh2 174)

2009-2010 Average Salaries	
Lick Creek	\$33,621
Anna	\$52,195
Jonesboro	\$43,099
AJHS	\$60,200

State Incentives will cover the difference in salary costs for the first four years of any reorganization. (PEXh1 84; PEXh2 232) Verbal testimony and the Wright study generalized on potential staff efficiencies such as reducing administration, bookkeeping, and special positions (TR 41; PEXh1 76), but petitioners did not provide testimony on all potential staffing and salaries for the new district or projections beyond the incentive payments.

Overall, most of the testimony provided for the financial aspect of a reorganization, including estimated tax rates and estimated cost savings, concerned the consolidation of the four individual dual districts into a unit district, which would be the same result as an optional elementary unit district where the Lick Creek, Anna, and Jonesboro elementary district territories all approved the referendum question. Details of the estimated total tax rates and details of the estimated costs savings were not provided for any of the other potential optional elementary unit district outcomes.

School Needs

During the testimony of Brandon Wright for the petitioners, the Regional Superintendent questioned the areas for meeting the needs of students. The responses mirrored the definition of school needs from the statute: "School needs" means the needs of the proposed school district and any districts in the area adjacent thereto in relation to, without limitation, providing a full range of high quality educational and extracurricular programs, maintaining a full complement of professional staff to deliver optimal educational services, meeting the program and staff needs of all students, including students with disabilities and students in career and technical education courses, maximizing community involvement in school governance, operating on an economically efficient basis, and maintaining a sufficient local tax base. 105 ILCS 5/11E-10.

- Ability to provide full range of high-quality educational and extracurricular programs: "...the reorganized district will be able to provide that full range of high-quality instruction and extracurricular opportunities." (TR 47)
- Maintain a full complement of professional staff: No change to staff, but "...might be able to find some efficiencies of staff particularly in the administrative side and perhaps in some other duplication of services." (TR 47)
- Needs of students with disabilities: "...nothing would change in terms of the needs of students with disabilities because they would still continue to be served through Tri-County Special Education as a member of that." (TR 47-48) The petitioners did not address meeting the needs of students in career and technical education courses.
- Maximizing community involvement: "...ability of a new district to continue to exist in the facilities as they exist and the buildings as they exist to make sure that the community continues to have a voice..." (TR 48)
- Operating on an efficient basis: "... speak specifically in the study to the issues of efficiency." (TR 48) The Wright study lists specific areas of efficiency including restructuring of administration and special positions, elimination of duplicative services, bulk purchases, and coordination of professional development. (PEXh1 76-77)
- Within this portion of testimony, the petitioners did not detail maintaining a sufficient local tax base, but testified about the estimated new unit district tax rate during testimony on finances.

Reorganization Studies

Both the Wright study and the Phillips study were prepared based on the premise of the consolidation of the four individual dual districts into a unit district. Within the Introduction section of the Wright study was the following statement: "This study will consider the feasibility of the proposed reorganization of the present school districts into one unit district that would operate for the entire area covered by the previous districts." (PEXh1 4)

Both the Wright study and the Phillips study concluded that a unit district formed from the high school district and all three elementary districts would be feasible and recommended. Within the Summary/Recommendations of the Phillips study was the following statement: "...the consultant team recommends an 11-A-E option vote in which all districts must vote to approve the unit and be included." (PEXh2 127) The Recommendations and Executive Summary section of the Wright study included a recommendation similar to the Phillips study, as well as provides a potential reason for the petitioners' request of an optional elementary unit district over an all-or-nothing unit district:

"The conclusion of this study is a recommendation for reorganization into a unit district. As discussed in the Summary of the Law above, that could best be accomplished through a hybrid reorganization. The hope and expectation is that each of the districts participating would approve the reorganization to create a new unit district that includes all of the territory, but the risk of referendum failure is too great with an "all-or-nothing" petition. With the option of the hybrid reorganization, there is the potential for reorganization and the benefits that would come therewith, without the risk of a minority of voters vetoing the entire proposition. Each elementary district would be able to decide its own fate – a factor that is most important for achieving buy-in from voters and taxpayers." (PEXh1 106)

Opponents' case

The opponents to the petition testified in three groups: an attorney representing the Anna and Jonesboro elementary districts, an attorney representing the Lick Creek elementary district, and members of the community. Opponent exhibits were entered for two of the three groups.

Anna and Jonesboro Exhibits:

- Anna #37 & Jonesboro #43 Exhibit 1: Objections to Amended Petition (AJExh1)

Lick Creek Exhibits:

- Lick Creek Exhibit 1: Letter from Union County Clerk and Recorder listing individuals on the petition who were not registered voters in Lick Creek (LCExh1)
- Lick Creek Exhibit 2: Listing of 63 individuals on the petition failing to list resident address including street, rural route, county, city, village or town, and state (LCExh2)
- Lick Creek Exhibit 3: Sample petition page from Union County Circuit Clerk (LCExh3)
- Lick Creek Exhibit 4: Union County registered voters by voting district (LCExh4)
- Lick Creek Exhibit 5: Projections of Rates and Extensions Based on 2009 Assessed Valuations, Rates, and Extensions and Questions Concerning Consolidation (LCExh5)

Community Member Exhibits: verbal testimony only, no exhibits entered into the record

Anna and Jonesboro

Merry Rhoades, attorney for the Anna elementary district and the Jonesboro elementary district, provided testimony of the two districts' objections to the petition. The objections included various factors concerning the validity of the petition and its compliance to statute. Objections were also raised about the format of the hearing as established by the regional superintendent. Ms. Rhoades also requested the regional superintendent take into consideration the qualifications and expertise of those testifying.

Lick Creek

Tim Denny, attorney for the Lick Creek elementary district, provided testimony of the district's objections to the petition. The objections included various factors concerning the validity of the petition and its compliance to statute. Objections were also raised about the format of the hearing and location of the hearing as established by the regional superintendent.

Objections were raised to the petition due to deficiencies related to the School Code. Mr. Denny stated "Section 11E-5 of the School Code states, one or more unit districts and one or more high school districts, all of which are contiguous, may under the provisions of this article be converted. It is long-standing in the State of Illinois that districts must be contiguous." (TR 82-83) Mr. Denny further explained the district's concerns in the case of a new district formed from the high school district and two of the elementary districts where the elementary territory could be divided by an existing elementary district not approving the vote to join the new district and remaining independent. The attorney referenced an incorrect section of the School Code in his argument. Section 11E-5 of the School Code is the purpose and applicability of Article 11E. From his statement, it appears the attorney was referencing Section 11E-15 of the School Code, which defines the formation of a high school-unit conversion. The reorganization type requested in the petition is an optional elementary unit district, defined by Section 11E-30(c) of the School

Code: “A high school district and 2 or more elementary districts that collectively are substantially coterminous may seek to organize into an optional elementary unit district as provided in this Article...” 105 ILCS 5/11E-30(c). The scenario presented by the attorney in his argument is not prohibited and would be allowable under the optional elementary unit district option pursuant to Section 11E-30(c) of the School Code.

Mr. Denny also objected to “Section 11” in the entirety, which must be assumed to mean all of Article 11E of the School Code. The objections stemmed from the belief that a petition and ballot question could not be prepared for the optional elementary unit district scenario that would be “constitutionally acceptable”. (TR 83-84) While the objection was properly raised during the hearing below, the constitutional argument has not been considered in this memorandum.

Additional objections were made to Brandon Wright being an expert witness. (TR 85-86)

Testimony was provided on concerns of the financial state of a new district after the incentives have been paid. At year 5, it was estimated a new district would experience a \$547,000 deficit. (LCExh5) The deficit came from the drop in GSA and increase in salary costs offset by the estimated administrative savings and estimated tax revenue increase. The estimated tax revenue increase shown on Lick Creek Exhibit 5 was computed using the permissive unit rate without a referendum for the Education, Operations and Maintenance, and Special Education rates, rates lower than were included in the petition for these funds. Testimony was provided on concerns that facilities or teachers would be cut to make up the deficit. (TR 89)

Community Members

Clay Mitchell: from Lick Creek territory, member of Lick Creek school board but representing self in testimony. Prior to retirement, Mr. Mitchell’s job was to evaluate plans, possible outcomes, courses of action and advantages and disadvantages. He did not believe what had been presented concerning the reorganization was a plan. Mr. Mitchell expressed concerns that all the potential outcomes of an optional elementary unit district were not presented and concerns that tax scenarios for the various potential outcomes were not provided. He believes centralization of the four different school boards into one will empower a small group of people. (TR 93-97)

Jon Vicenzi: from Jonesboro territory, president of Anna State Bank and member of Jonesboro school board. Mr. Vicenzi expressed concerns for the new district’s finances after the incentives have been paid. He expressed his belief that the potential loss in GSA and the potential increase in teacher salaries will not be covered by the cost savings described and will result in higher taxes or cuts to teaching staff. Mr. Vicenzi also stated his opinion that any substantial increase in taxes would be unaffordable to some in the community. (TR 98-99)

John Basler: from Lick Creek territory and member of Lick Creek school board (per appearance slip). He testified that while the intention is to keep all current buildings open with the same attendance patterns, these could be changed by the new school board. He also expressed concern that with the current differences in class sizes, busing would eventually occur to even out the class sizes. Mr. Basler also expressed the opinion that the committee of ten had not met enough to prepare a plan for the proposed reorganization. Additionally, he expressed his belief that the

independently funded study came up with the result wanted by the person providing the funding. (TR 100-104)

Dave Shaffer: resident of Union County (did not provide school district territory). He testified he did not believe a plan was presented. He recommended that a plan should be produced that provides an unbiased opinion. Mr. Shaffer also expressed his opinion that the reorganization will result in an unaffordable tax increase. (TR 104-107)

Closing Statements

Tim Denny, attorney for the Lick Creek elementary district, provided closing remarks for the opponents. Mr. Denny provided various voting result scenarios and restated his overall objection to Article 11E. He stated that the Lick Creek school building is the only public building within the town: “Once you consolidate us and start sending more kids from around our county to the Lick Creek Grade School, you’re going to be taking away the identity of a community that is very close-knit, that watches out for one another and cannot be replaced once we consolidate.” (TR 111-113)

John Bigler, Committee of Ten member and attorney for the Committee of Ten, made closing remarks for the petitioners. Mr. Bigler restated that both of the reorganization studies recommended consolidation. (TR 113-116)

Janet Ulrich introduced two members of the Regional Board of School Trustees who attended the hearing and remarked to them: “Should it ever come to a point where we do have a unit formed, you and Lillian as well as the other board members will be involved in the reorganization of the boundary lines and the renaming.” (TR 116-117) The Regional Board does not have an involvement in the optional elementary unit district requested in the petition. Nor does a Regional Board have decisions on the naming of a new district, which would be decided by the new district board with the Regional Superintendent picking the new district number.

Not Testifying

Representatives for Anna Jonesboro CHSD 81 did not testify at the hearing. The district superintendent and school board members attended the hearing but did not testify. The school board president for Anna Jonesboro CHSD 81 also serves on the Committee of Ten. All district personnel and board members who could be identified either noted on their appearance slips they wished to observe only or did not note an option.

Misstatements within the Transcript

For clarity, certain misstatements in the hearing transcript are noted and corrected. First, while Petitioners referred to one of their witnesses as an expert witness, there were no expert witnesses at this hearing. No foundation was laid as to qualifications of a witness in an area of expertise. Likewise, Petitioners improperly referred to Dr. Phillips as an expert (albeit not an expert witness) without so establishing. (TR 16) Opponent School Districts’ objection in this regard

was proper (TR 74-75, 85-86) and minimally, any reference to a witness being an expert must be disregarded.

Second, there were different views at the hearing and within the feasibility studies as to the applicability of the Property Tax Extension Limitation Law (PTELL). Opponent School District Lick Creek stated that PTELL might apply to any newly created district. (TR 79-80) The Phillips feasibility study relied on the uncertainty about PTELL as its reason for expressly not recommending an optional elementary unit district. (PExh2 114, 127, 179) While this may have been true at the time of the study, the issue was settled prior to hearing.

Petitioners correctly presented that any new district would not be subject to PTELL, regardless of which of the seven scenarios resulted. (TR 42-43; PExh1 9-11) A discussion between the Illinois Department of Revenue and ISBE staff confirmed that the recent *Auburn* case is distinguishable, and the Petitioners and school districts were made aware of that conclusion. In *Auburn*, the Illinois Supreme Court held that Auburn continued to be subject to PTELL because the dissolution and annexation of Divernon into Auburn did not create a new taxing body. *The Board of Education of Auburn Community Unit School District No. 10 v. Department of Revenue et al.*, 242 Ill.2d 272, 950 N.E.2d 652, 351 Ill.Dec. 156 (2011). Here, in any scenario, a new taxing district will be created as none of the districts that join the unit will continue to exist.

Regional Superintendent Order

Regional Superintendent Janet Ulrich issued an order denying the petition. The Regional Superintendent's Order cited the following:

- The Regional Superintendent stated the wording of the petition prayer "...may have misrepresented the intent of the petition to the registered voters signing the original petition (thinking all four districts' boards of education supported the petition)." (Order 2)
- "...evidence to address a newly formed optional elementary unit district on school needs and conditions in the territory described in the petition, how the proposed district would meet standards of recognition, and the division of funds and assets if the petition is approved was generalized with very little proof of need for change, plan for change/how to implement and how this would improve the current situation." (Order 4)
- "The Committee of Ten based their evidence on a four-district new unit district but did not address a new optional elementary unit district plan which would need to be addressed on each of the eight possible outcomes of the election. An example of this would require a plan of aligning curriculum when only one elementary district votes to form a unit district with the high school." (Order 4)
- "...the Committee of Ten's evidence has not been provided to represent a clear and concise transition from the four present independent districts to each of the scenarios should the election results include only two or three districts." (Order 4)
- "Petitioners provided data (enrollment, etc.) but no plan to address a plan or procedure to move forward with each possible scenario for Year 1-4 and on the 5th year after the funding incentives expired." (Order 4)
- "I cannot approve this petition moving forwards when considering 105 ILCS 5/11E-45, what is best for schools, revenues with four of the eight scenarios showing a loss in

school district funds and a large number of certified staff placed on the highest salary scale, finances, and most importantly what is best for students and their academic opportunity as well as extra-curricular improvement.” (Order 8)

- “If I knowingly understand that eight possible outcomes will be feasible from this petition request and that those outcomes could very well put the financial status of one or more of our districts at risk, I cannot approve a reorganization change when these four educational systems have proven to be working well as it stands.” (Order 8)

Summary and Conclusions

In the review of all Article 11E petitions, the State Superintendent must statutorily consider “...the school needs and conditions of the affected districts and in the area adjacent thereto, the division of funds and assets that will result from the action described in the petition, the best interests of the schools of the area, and the best interests and the educational welfare of the pupils residing therein...” in approving or denying a petition. 105 ILCS 5/11E-50(b)

School needs and conditions of the affected districts

Pursuant to 105 ILCS 5/11E-10, “School needs” means the needs of the proposed school district and any districts in the area adjacent thereto in relation to, without limitation, providing a full range of high quality educational and extracurricular programs, maintaining a full complement of professional staff to deliver optimal educational services, meeting the program and staff needs of all students, including students with disabilities and students in career and technical education courses, maximizing community involvement in school governance, operating on an economically efficient basis, and maintaining a sufficient local tax base.

Providing a full range of high quality educational and extracurricular programs:

As the current high school population of Anna Jonesboro HSD will remain the same after any of the potential optional elementary unit district outcomes, the existing high school curriculum and extracurricular offerings will be able to remain in effect. With the proposal to keep current elementary facilities in operation with the same attendance patterns, the existing elementary curriculum and extracurricular offerings at each current facility will be able to remain in effect. With any of the potential optional elementary unit district outcomes, the strengths of any of the current curriculums will be able to be shared amongst the elementary territory joining the optional elementary unit district.

A reorganized district will be better able to align curriculum, a process that reportedly has not occurred among the separate districts. Most of the testimony provided detailed curriculum alignment in the instance where the Lick Creek, Anna, and Jonesboro elementary districts territories all approve the referendum to form an optional elementary unit district, but better alignment should result regardless of how many elementary districts join with the high school district in a reorganized district.

Better curricular alignment will serve the interests of students who are mobile among the current elementary districts, even if that mobility rate is low.

Maintaining a full complement of professional staff to deliver optimal educational services:

Testimony from the petitioners suggests that staff changes in a reorganized district will come from restructuring administration, bookkeeping, and special positions to eliminate duplication. With the proposal for minimal reductions in teaching staff, a reorganized district formed from any of the potential optional elementary unit district outcomes should be able to maintain a “full complement” of teaching staff to serve the reorganized district’s student population.

Meeting the program and staff needs of all students, including students with disabilities and students in career and technical education courses:

A reorganized district formed from any of the potential optional elementary unit district outcomes will still be able to obtain special education services through the Tri-County Special Education Cooperative which serves the current districts. Although not stated in testimony, the high school in a reorganized district will still be able to access vocational courses through the Five County Vocational Center.

Maximizing community involvement in school governance:

With the proposal to keep current elementary facilities in operation with the same attendance patterns, the petitioners suggest each individual community will still have an interest in being involved in school governance at the local level.

Operating on an economically efficient basis:

Petitioners reported estimated savings of \$350,000 to \$500,000 in a reorganized district due to restructuring of administrative and specialty positions, elimination of duplicative services, the advantages of bulk purchases, etc. Savings could be used to offset potential decreases in other funding or be funneled to the educational program. Even though the estimated savings provided were reflective of the Lick Creek, Anna, and Jonesboro elementary districts territories all approving the referendum to form an optional elementary unit district, it can be assumed that any of the potential outcomes could produce some sort of savings within the areas suggested.

Maintaining a sufficient local tax base:

The estimated new unit district tax rates are comparable to the combined total tax rate within each current elementary district territory, although some areas are projected to experience a slight increase. The estimated increase to the Lick Creek territory is a \$0.03 increase over that territory’s current total tax rate. The petition requests the new district have authority to levy the Education, Operations and Maintenance, and Special Education rates at the maximum rates allowed to a unit district. Any potential increase to a new unit district rate that might occur due to not all of the elementary district territories approving the referendum to form a reorganized district could be covered by that levy authority.

The division of funds and assets that will result from the action described in the petition

In the type of reorganization requested, only one new district will be created no matter how many or which elementary district territories approve the referendum to form an optional elementary unit district. Therefore, there will be no division of funds and assets among multiple new districts. The funds and assets of the current districts forming the reorganized district will become the funds and assets of the newly formed district. Bonded indebtedness will remain separate and continue to be taxed against the territory where the long-term debt originated.

The best interests of the schools of the area

Petitioners propose to keep all current school facilities open and operating with the same attendance patterns. Transportation should not be greatly affected by this type of reorganization, and slight increased efficiencies could occur.

The best interests and the educational welfare of the pupils

An aligned curriculum should benefit the students within the elementary district territories that approve the referendum to form an optional elementary unit district. Any students mobile among the current elementary district territories would also benefit. With the proposal to keep all current school facilities open and operating with the same attendance patterns, students should not have to face altered transportation patterns to reach their school buildings. Special education students will still be able to be served by the cooperative serving the current districts, hopefully resulting in little change for these students' educational programs. High school students will still be able to be served by the vocational service center serving Anna Jonesboro HSD, allowing these students to continue their chosen educational path.