

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:35 p.m. on February 14, 2005, in Room 123-S of the Capitol.

Committee members absent: Chris Steineger

Committee staff present: Carolyn Rampey, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Richard, Olmstead, Attorney at Law, St. Paul
Scott Smith, CUSD 101 Board of Education
Steve Wheeler, CUSD 101 Board of Education
Michael Beachner, citizen, CUSD 101
Terry Diskin, past member, CUSD 101 Board of Education
Kelly Coover, CUSD 101 Board President
Mark Tallman, Kansas Association of School Boards
Jennifer Foster, Kaw Valley CARES

SB 174—Assignment of all or one or more grade levels to one school building

Theresa Kiernan, Revisor of Statutes Office, noted that **SB 174** was introduced by the Senate Education Committee at the request of Senator Duane Umbarger. She explained that the bill provides that, if a school board plans to transfer all students in one or more grade levels to one school building and keep all other grade levels in another, the board must adopt a resolution stating its intention. The resolution would have to be published, and there would have to be a public hearing on the proposal. If the school board decides to move all pupils in the same grade level to a separate building following the public hearing, a resolution would again have to be adopted and published. The second resolution would be subject to a protest petition signed by at least 30% of the registered electors within the school district. The bill would apply to any transfer of all grade levels approved by a school district since November 30, 2004.

Richard Olmstead, an attorney representing St. Paul school district patrons in support of **SB 174**, noted that the bill addresses closing a loophole, openness in government, accountability, and procedural safeguards. He went on to explain that the Erie-St. Paul School Board voted in December 2004 to close Thayer High School and St. Paul High School at a meeting where the public was not provided an opportunity for input or an opportunity to respond to the decision. Limited information was given to the public in support of the board's decision. Mr. Olmstead noted that current statutory safeguards apply only if the entire building is shut down. In this instance, kindergarten through grade 8 would remain in each of the buildings, but high school students would be sent to Erie High School. There were no procedural safeguards for the parents who wanted the high school to remain in their community. He contended that the loophole that needed to be closed was to give school district patrons in this type of situation the opportunity to be heard, the opportunity to demand reasoning for the decision by a local school board, and the opportunity to hold the school board accountable for its decisions. He noted that the openness promoted by the bill would be that a district would be responsible for publishing its intentions and then holding a public meeting to hear testimony from anyone who wanted to speak for or against the decision being proposed. The board would also be required to present facts in support of its decision to close a school. Mr. Olmstead explained that the reasons given for closing the schools were primarily financial. However, when he addressed the school board at its January 2005 meeting and proved to them that the financial information on which they relied was incomplete, the school board remained determined to enforce its decision to close the schools. He noted that the accountability provision of the bill simply says that a district is going to be held accountable. If a district pushes through a decision where there is no foundation in fact or logic, the voters of the district would have the opportunity to petition so that the issue of the school closing could be put before the voters of the district. He explained that Thayer patrons who were unhappy with the school board's decision filed an lawsuit to attempt to get an injunction. Currently, there is an injunction in place preventing the district from moving forward with any action. If that fails, there is no other recourse for the patrons of the school district. (Attachment 1)

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:35 p.m. on February 14, 2005, in Room 123-S of the Capitol.

Scott Smith, a CUSD 101 Board member who was elected in April 2003, testified in support of **SB 174**. He gave a brief history of the actions taken at board meetings to close the high schools after he began his term in July 2003. He contended that, by restructuring the district and transferring students but not closing buildings within the district, the Board deliberately circumvented the law in order to avoid a public hearing in which they would hear testimony as to the advisability of the proposed closing. In his opinion, the passage of the bill would close the loophole and ensure that local boards must listen to and be accountable to their electorate. (Attachment 2)

Steve Wheeler, a CUSD 101 School Board member, testified in support of **SB 174**. He emphasized that the most important reasons that the bill should be passed were that parents should have final say on their child's education, and the voting public should have the opportunity to keep the local school board accountable for their decisions concerning moving students or closing school buildings. He noted that four board members voted to move high school students from two high schools to a third. As a member of that board, he has not yet seen a plan on how the additional students will be housed at one high school, and there is no plan for reducing staff to cut the cost to the district. In addition, there has been no board discussion on improving curriculum or instruction with a reduced staff. In closing, Mr. Wheeler said, in his opinion, school board members who oppose the bill are either afraid of the voting public or are doing something they know is not right. (Attachment 3)

Michael Beachner, a resident of St. Paul, testified in support of **SB 174**. He informed the Committee that, with the closing the high schools at St. Paul and Thayer, St. Paul students would be forced to travel a round trip of 18 miles to Erie High School, and Thayer students would be forced to travel a round trip of 32 miles. He explained that the board's decision followed the defeat of a bond issue to build a centralized high school midway between these communities. He noted that CUSD 101 was currently forward funding \$4.0 million in excess reserves, and the students in the district receive satisfactory marks and excel in some areas. In addition, the buildings in St. Paul have been inspected and found to be more than adequate for all educational requirements. In conclusion, he urged the Committee to support the bill so that small schools in small communities would be protected. (Attachment 4)

Terry Diskin, a past board member of CUSD 101, testified in support of **SB 174**. In his opinion, the bill provides a fair and equitable solution to dilemmas created by school closings predicated by a majority vote of the local school board. He requested that the bill be amended on lines 27-29 to adopt current statutory language concerning a protest petition to provide taxpayers with much needed input on an important decision such as closing a school. He contended that passage of the bill would prevent closure of schools without reasonable financial justification. He commented, "Small communities who lose their schools suffer severe financial hardships as a result." (Attachment 5)

Senator Vratil asked how many students were currently attending each of the three high schools. A conferee indicated that 75 students attend Thayer High School, 80 attend St. Paul High School, and 210 attend Erie High School.

Senator Schodorf called attention to written testimony submitted in support of **SB 174** by the following: James Snavely, a citizen of Thayer (Attachment 6), Kenny Baker from rural Thayer (Attachment 7), Ken Adams of Thayer (Attachment 8), James E. Smedley (Attachment 9), Larry Wayne Rehmert of Thayer (Attachment 10), Janet M. Rehmert of Thayer (Attachment 11), Ann John of Thayer (Attachment 12), Charles W. Stiles of Thayer, (Attachment 13), Betty Wheeler of Thayer (Attachment 14), Randy Studebaker, a small town business owner and parent (Attachment 15), Richard Giefer, past board member of CUSD 101 (Attachment 16), Keith A. Smith of St. Paul (Attachment 17), Bryan J. Schulz of Thayer (Attachment 18), Sheila Dyke of Thayer (Attachment 19), Sharon Hougardy of Thayer (Attachment 20), Gloria Elrod of Thayer (Attachment 21), Cheryl Studebaker, a CUSD 101 District planning task force member (Attachment 22), and Robyn Studebaker, a high school student from Thayer (Attachment 23).

Kelly Coover, CUSD 101 Board President, testified in opposition to **SB 174**. He noted that he represented the majority of the CUSD 101 School Board in Neosho County in southeastern Kansas. He commented that the bill was obviously aimed directly at his school district. He went on to explain that school consolidation in his district would allow the reduction of staff by 11, an increase in class offerings for all high school

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:35 p.m. on February 14, 2005, in Room 123-S of the Capitol.

students, and expanded junior high offerings. He pointed out that CUSD 101 is the smallest school district in the state still operating three high schools. He informed the Committee that his district has maxed out its local option budget, and the student population continues to decline. However, expenses have continued to increase. He noted that the bill is retroactive in nature, which he believes is inherently unfair to his school district and its voters. Furthermore, he noted that the board sought legal advice before beginning the process of reassigning students to ensure that it was following state law. He said the passage of the bill would cost his district an additional \$300,000 to \$400,000. He urged the Committee to reject the bill because it would prevent the school district and the school board from doing their jobs. In his opinion, local school district problems of this nature should be kept in local hands. (Attachment 24)

In closing, Mr. Coover held up a petition signed by 600 persons in his school district in support of the school board's efforts to consolidate. He explained that, when he was elected to the board, the only contentious issue was consolidation. He studied information presented to him before he was elected, and he made it crystal clear that he favored consolidation. In spite of his position, he won. He commented, "I think that tells you that the majority of the people in my school district believe that we are doing the right thing." He noted that three other board members support his efforts; however, they did not come to the meeting.

Mark Tallman, Kansas Association of School Boards (KASB), testified in opposition of **SB 174**. It is the position of KASB that, while school closings are among the most difficult issues most communities face, these decisions should be made by elected school boards which, under the constitution, have the duty to "maintain, develop, and operate" public schools. By making decisions on student assignments subject to protest petition, the bill would impede the ability of locally-elected boards to efficiently manage public schools. KASB supports incentives and opposes impediments to voluntary school district re-organization. (Attachment 25)

Jennifer Foster, Advocacy Chairperson for Kaw Valley CARES, Inc., testified in opposition to **SB 174**. At the outset, she noted that she lives in Rossville, which is part of USD 321. She explained that the issue of consolidation was familiar to her because, in 2002, the USD 321 School Board passed a motion to reorganize the structure within the district. The restructuring would have reorganized the district from its long-standing structure of two high schools and four K-8 grade schools into a district with one high school, one middle school, and four K-5 grade schools, which would have resulted in a savings to the school district while increasing educational opportunities for the students. Some of the patrons were outraged and filed for an injunction to stop the reorganization, but the injunction was not granted. Recall petitions were circulated. They were challenged in court and found to be legally insufficient. When election time came, the majority of the USD 321 patrons voted for new Board members who reversed the plan at their first meeting and promised that they could add courses without raising taxes. However, they have yet to deliver. Based upon the experiences within USD 321, Ms. Foster argued that local school boards should be required to close school buildings in order to prevent multiple high schools in low enrollment school districts and to promote efficient and effective education. (Attachment 26)

Senator Schodorf called the Committee's attention to written testimony in opposition to **SB 174** submitted by Mark Desetti, Kansas National Education Association. In summary, Mr. Desetti contended that subjecting a school board's decision to popular vote is inappropriate. (Attachment 27)

Senator Ostmeyer asked conferees if Erie High School would have enough room to accommodate high school students from Thayer and St. Paul. Mr. Coover explained that, after the Board's vote on December 6, 2004, a temporary restraining order was put in place. Therefore, board members were not able to discuss the specifics on how the board intended to go forward with consolidation.

Senator Schodorf commented that, while she understood the difficult time the residents of CUSD 101 were having, she wished that they could solve the problem on their own because it was a highly emotionally charged issue. With this, the hearing on **SB 174** was closed.

Senator Schodorf noted that due to a lack of time, it would be necessary to continue the planned discussion on three bills relating to K-12 finance and reform, **SB 244** (The 2010 Commission), **SB 245** (audits), and **SB 246** (three-year school finance plan). She reminded the Committee that the Committee would meet from

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:35 p.m. on February 14, 2005, in Room 123-S of the Capitol.

12:00 p.m. until 2:30 p.m. on February 15, 16, and 17. She explained that testimony from conferees would be heard between 12:00 p.m. and 1:00 p.m. on February 15 and 16, and committee discussion was scheduled for 1:00 p.m. until 2:30 p.m. The extended meeting on February 17 would be for committee discussion and possible action on the bills. She asked that committee members be prepared to offer any suggested changes in the bills they may have or to offer other workable plans they may have. She commented that the Committee would be devoting eight hours to school finance or more, if necessary. She emphasized that, due to the Supreme Court's April 12 deadline, it was important to get a plan out of the Committee as soon as possible so that debate by the full Senate could begin.

Senator Schodorf called attention to copies an informational memorandum prepared by Carolyn Rampey, Legislative Research Department, regarding The 2010 Commission, school district performance audits, and amendments to the School District Finance and Quality Performance Act and other school finance legislation. (Attachment 28)

Senator Lee called attention to a handout prepared by Dale Dennis, Deputy Commissioner, Board of Education, as requested at a previous meeting. The handout includes a computer printout of the formula based upon the results of the Department's survey of 55 unified school districts concerning the actual costs to educate a student. Mr. Dennis noted that the printout provides the difference between the general fund, excluding special education, and the local option budget compared to the new formula. (Attachment 29)

The meeting was adjourned at 2:30 p.m.

The next meeting is scheduled for February 15, 2005.