

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 12:10 p.m. on March 13, 2006, in Room 123-S of the Capitol.

Committee members absent:

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: None

Committee discussion and action on:

SB 584—School districts; relating to school finance

In response to a request by Senator Pine for more information on the at-risk student program, Carolyn Rampey, Kansas Legislative Research Department, distributed copies of the guidelines which the Department of Education uses to define an at-risk pupil. (Attachment 1) She noted that at-risk funding is generated on the basis of the students who apply for free lunches. Once the money is generated, the school districts at the local level decide who will be offered services. She distributed copies of a list of school districts which showed each district's percentage of free lunch students. (Attachment 2) The Committee later referred the list as they discussed the high at-risk program.

Ms. Rampey also distributed a summary of the Kansas Supreme Court Supplemental Opinion in *Montoy, et al. v. State of Kansas et al.* prepared by the Kansas Legislative Research Department. (Attachment 3) She pointed out that the Court said the Legislature needed to address the base state per pupil, at-risk weighting, bilingual education weighting, special education, local option budgets, low enrollment weighting, and capital outlay.

Senator Schodorf called the Committee's attention to an explanation of the Senate three-year education plan (**SB 584**) and computer printout (SF6071) which was distributed by Dale Dennis, Deputy Commissioner, Kansas Department of Education, at the March 8 meeting. She suggested that the Committee use the handout as a guide as the Committee attempted to formulate a plan for debate on the Senate floor. She noted, "For now, we are going to be looking at a three-year plan. When we get to discussing what the Committee wants, that may change. In looking at what the Supreme Court will want, we don't know necessarily that they won't accept a three-year plan. The alternative is a one-year plan with a large amount of money or a small amount, and we're still looking at what the opinion of the Supreme Court was."

Senator Apple commented that perhaps the Committee should consider scaling the plan back to make it fiscally responsible, and the state would not experience terrible financial problems in two years. Senator Vratil commented, "I share Senator Apple's concerns about not having funding for a three-year plan, but the problem on the other side of the coin is, if you scale back the proposed Senate plan to any significant extent, you pretty much guarantee that we will not meet the requirements of the Supreme Court. We either attempt to meet the Supreme Court's demands and avoid a special session this summer or we try to ensure that whatever plan we propose is funded with current resources." Senator Apple commented, "I think we're kidding ourselves if we think that we can continue to financially meet the obligations of No Child Left Behind. I think that we're either going to tell the Court this year or we're going to tell the Court in two years that these are worthy goals; we definitely want to attempt to meet those. But if we're going to say we'll meet those no matter what, I just simply don't think that we can do it." At this point, Senator Lee distributed copies of a memorandum prepared by Ms. Rampey in February in response to questions she had about the fiscal impact if a state decouples from No Child Left Behind standards. (Attachment 4)

Senator Schodorf said, "I do not buy the premise that it's going to cost us \$400 million times 15 years. It's just not going to do that. Number one, we're not going to do it. Number two, we can't afford it. And I don't think that it will cost that much. If you talk to the person who's over the federal No Child Left Behind in

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Kansas City, she says that is not a valid argument; that it will not cost all that money. The other thing is, that's a long-term problem. But, right now, this is a short-term. We're trying to find a bill to get out."

Senator Steinerger stated, "I think we should commit to a three-year plan. I think it's the only practical way to try to live within our means yet also achieve what the Court expects of us. And for Senator Apple, I would point out a couple of examples we've had in recent history where the Legislature committed to multi-year spending plans and then later to renegotiate those plans. Number one was the highway program. That was under Governor Graves, and the state ran into a little bit of a financial problem, and we had to make some cut backs in the highway plan. And the second one was higher education restructuring, **SB 345**; the same story. We ran out of money a couple of years ago, and we had to delay implementation of that bill. That's what we've done before. We've made multi-year commitments and fine turned them as time went on." Senator Schodorf added, "Senator Apple, there is no doubt that year three is of great concern. We had the same argument last year, and that's why we went to a one year. And then the economy improved. So had we funded a three-year plan last year, we would be in the black every year. We thought that year three was going to be a huge, huge deficit, and it turned out that it wasn't. You're right to be concerned. We are all concerned about either way. Right now, we're just trying to get a consensus here to move forward on some semblance of a plan."

Senator Steinerger observed, "We're making two changes overall. One is formulaic changes, and two is the amount of money that we're putting into school finance. The money is going to be more of a long-run problem because our revenue goes up and goes down. Most of what has been tried in this whole court case for five years now has been perceived as actual inequities in the school finance formula. So it seems to me that maybe we should phase-in the first year. If we really want to do our best to appease the courts and help the schools, probably the most important thing is getting the technical changes in the finance formula made in the first year, even if we have to reduce our increase in base state aid per pupil. I think we need to show the courts, yes, we understand there is a problem with at-risk, bilingual, special ed, etc. But let's go ahead and make our changes now – all of them in the first year – and increase funding as money becomes available." Senator Lee added, "I can support a three-year plan, but I would caution this. If we pass a three-year plan and we're fortunate enough that the Court approves it, don't plan on cutting back in the second and third years. Because, if we pass a three-year plan, and the Court says okay, my gut feeling is that they are not going to step back. They want it all in one year. So, if we don't do it all in one year, then I think they're going to keep control, and they're going to watch if we will spend in the second and third year. But I agree with Senator Vratil. I believe our option is to spend it all in one year."

Senator Schodorf called for a straw vote on those in favor of a three-year plan. The voice vote was in support of a three-year plan.

Senator Schodorf opened a discussion of the increase in the base state aid per pupil in the Senate plan (\$50 increase the first year, \$50 increase the second year, and \$70 the third year). Senator Vratil asked, "Do we have a breakdown of what would actually go to the base and what would go to the other weighting factors—low enrollment, at-risk, bilingual, vocational, correlation?" Mr. Dennis answered, "No. It's something that's not difficult to do, but you don't have it. The base is about a little over \$22 million, and the rest would go to the weightings, scattered throughout." Senator Vratil requested that Mr. Dennis provide the breakdown for future reference.

On a call for a vote on the proposed base state aid per pupil, the voice vote was in support.

The Committee next considered the regular at-risk weighting in the proposed Senate plan. Senator Schodorf noted that regular at-risk included free lunch pupils, and the plan went up from .193 to .268, and it continued to increase until it gets to .368 in 2008-09. Senator Vratil called attention to a packet of materials addressing the at-risk aspects of the formula which was prepared by the Kansas State Department of Education. (Attachment 5) He explained, "The first item in the packet is a memo from Dale Dennis indicating that, a year ago for the '04-'05 school year, we were spending about \$52 million on at-risk. This year, we're spending about \$111 million, and, if we were to adopt the Senate plan, we would add \$43 million to that. So it would be somewhere over \$150 million or about three times what we were last year. That's not to say that I don't think additional at-risk money is necessary, but we are increasing it very rapidly. Given the amount of money

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that we're talking about for at-risk programs next year in the area of \$150 million, at-risk suddenly becomes a lot more of a focal point in this formula. So I really question our definition of an at-risk student, and I refer you to the next document in your packet (pages 89 and 90 from the Legislative Post Audit study) where they also question the relationship between free lunch students and those students who are in need of at-risk services. I just quote from there where they say, 'The state's basis for funding at-risk services has little relationship to the number of students who receive at-risk services.' And they have provided a chart on page 90 of their report which shows selected districts, and as I recall these were pretty much randomly selected. It shows, for example, that Logan gets at-risk funding for 63 students but only provides services for 47 students and that only 13 of those students actually qualify for free lunch and get at-risk services. What that tells me is that there are wide discrepancies and no correlation between free lunch students and those students who are in need of at-risk services. The next document is one that I had prepared earlier in the session and provided all of you a copy. This really dramatically reflects the problem that I see in our current definitions. If you look at the last page, it reflects that there are about 135,000 students who qualify for free lunches, but over 200,000 students receive at-risk services, which, at least in my mind, draws into question whether there is any correlation between those two factors. And I think those numbers indicate there isn't. If you believe there is a correlation, you only need to look at individual school districts. There clearly is no correlation from one school district to another between free lunch students and those who are receiving at-risk services. We have districts who are receiving at-risk money for 63.2 percent more students than they are providing services to, or 75 percent, or 50 percent, or 35 percent. And then we have districts who are providing at-risk services to 851 percent more than they are receiving money for, or 190 percent more than they are receiving money for. That doesn't constitute correlation. Going on to the next document in your packet, this comes from Ken Daniel. I have talked with Mr. Daniel and am satisfied with the validity of his study. The chart he's provided compares the number of children who should be eligible for free lunches in a district with the number reported by the district. He determines the number that should be eligible by relying on Census Bureau figures from 2000 and then extrapolating to 2003. To qualify for free lunch, a child must be from a family that has an income of 130 percent of the federal poverty level or less. The figures that are on this chart are from Census Bureau figures for calendar year 2003 and from the September 20, 2003, enrollment reports. And the assumptions are that every child goes to a public school. Generally speaking, what this shows is that about 55,000 more children are reported as free lunch children than the maximum possible under Census Bureau figures. For example, Healy public schools have three students who would qualify under Census Bureau figures. They are claiming 30 free lunch students. Golden Plains has nine who would qualify under Census Bureau. They are claiming 82 free lunch students. Frontenack has 20 who would qualify under Census Bureau figures. They are claiming 163. Which has to create some question as to the validity of our current at-risk program. I think it's incumbent upon the Legislature, first of all to try to ensure that whatever formula we come up with is accurately applied by all school districts, and secondly, it's very important that in the at-risk area, whatever money we appropriate actually goes to services for at-risk students. And I think there is a better way to do it. There are a variety of ways to do it. One is to just define at-risk students as those who are below proficient in either reading or math. After all, those are the students that reflect the achievement gap, and those are the students that the Supreme Court has said we need to deal with. So I'd like to hear some discussion among committee members about changing the definition of at-risk students."

Senator Teichman commented that at this time, the Committee did not have enough time to study all the information presented and, in addition, she would like to see information on what other states were doing. She noted that an at-risk task force was currently studying the issue and suggested that the Committee not make a decision on the at-risk definition until the task force made its recommendations. Senator Lee commented that she did not know how valid the information was, and she felt some of it was contradictory. She stated, "I would recommend that we stay with the current definition until we hear from the at-risk commission and see what they bring back to us in terms of recommendations." Senator Vratil responded to questions concerning at-risk funding and his suggestions for the definition an at-risk student. During the discussion, staff noted that the At-Risk Council had not had the extensive discussion of an alternative way of generating funding that the Committee was having. It was also noted that the Council was scheduled to meet again on April 13 and would be soliciting input from conferees, and the Council would possibly begin to make recommendations on May 30.

Senator Lee moved to not change the definition of at-risk weighting and to keep it as it is in current law until the Committee receives a report from the At-Risk Council, seconded by Senator Teichman.

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Senator Allen asked if it was known when the Committee would have a report from the At-Risk Council. Staff noted that the Council was scheduled to report by October of this year. Senator Vratil noted that the At-Risk Council is to report to the 2010 Commission, and then the 2010 Commission will make recommendations to the Legislature for the 2007 Session.

Senator Allen made a substitute motion that the Committee change the definition of at-risk to mean “students who qualify for free lunch or students who are below proficient in either reading or math,” that any student not be counted more than one time, and that the same amount of money be spent on at-risk as is currently in the proposal being considered, seconded by Senator Vratil.

Committee discussion followed regarding how the money would be distributed. Senator Allen said, “I believe that it would be distributed differently because we’re counting different children, but the same amount of total at-risk dollars would be spent.” Senator Lee responded, “There are schools who now, because of income levels, don’t receive at-risk, who now will receive at-risk. If they begin to receive money, that means the schools who now receive money will receive less.” Senator Pine stated, “It seems to me, from what we’ve just been looking at in these runs, is that’s what schools are doing in terms of their using the money for more kids than what, according to the definition, they should be. So it would seem to me Senator Allen is trying to more fairly distribute that money to those that need it, and I would think we ought to be trying to do something like that.” Senator Goodwin commented, “This is very intriguing, and I think it’s something we need to look at. I think it’s something we need to address; however, I regret that we’re at this time of the year when we’ve got to get a bill out. I would like to have more information. I have a feeling that a lot of school districts are doing this, but I’d like to have a more accurate count.” Senator Apple commented, “I think it’s going to be more difficult next year with the increased funding in at-risk to go in and change the definition next year. So I’ll be voting with Senator Allen.

Senator Schodorf called for a vote on Senator Allen’s substitute motion. On a call for division, the vote was tied 5 to 5. Senator Schodorf broke the tie by voting, “no.” The substitute motion failed.

Senator Lee withdrew her motion, and Senator Teichman withdrew her second to the motion. Senator Ostmeyer confirmed that, with Senator Lee’s withdrawal of her motion, the current at-risk definition would remain.

On a straw vote on leaving the regular at-risk three-year increase in the proposed school finance plan, the majority voted to leave it in the proposed plan.

Senator Schodorf opened a discussion on additional flexibility in spending at-risk funds under the House school finance plan (**HB 2986**). Mr. Dennis explained that, under the House version, schools would be allowed to use at-risk funds for bilingual or whatever they choose, but they would have to record how the revenue was spent. Ms. Rampey called attention to a revised comparison of 2006 school finance plans which had been distributed to the Committee. (Attachment 6). She pointed out the second paragraph on page 6 under the **HB 2986** column which described the flexibility provision to which Senator Schodorf referred.

Senator Steineger commented that allowing school districts flexibility in managing their resources was a good thing as long as it holds up to the Supreme Court’s scrutiny. Senator Vratil commented that the inclusion of the provision in the Senate plan was a good idea with the accounting requirements in the House plan so that it could be determined how much money was being spent on at-risk students, preschool-aged at-risk, and bilingual and vocational education programs.

Senator Vratil moved to include in the Senate school finance proposal the flexibility in spending provisions from the House plan concerning at-risk, preschool-aged at-risk, and bilingual and vocational education funds, seconded by Senator Steineger. The motion carried.

Senator Schodorf opened a discussion on the provision in the Senate plan for the high at-risk program based on the percent of enrollment that qualified for free lunch which was included in the Legislative Post Audit study. Senator Lee noted that, under the **SB 584**, high at-risk would apply to the following five counties: Shawnee, Seward, Sedgwick, Ford, and Wyandotte. Senator Vratil noted, “I believe the House bill has

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Kansas City, Kansas, Wichita, and Topeka, which we also have. Plus, they would have Hutchinson, Leavenworth, and Turner, which we don't have."

Senator Apple commented, "If you look at the number of students that are free meals in those five districts, how do you draw the line between 54.01 percent and 53.62 percent? I'm just wondering – We didn't hear about this until the first of January, but yet we're going to look at funding \$10 million. It may be worthy. It may be the right thing to do, but with today's litigation and society, are we setting ourselves up for another lawsuit?" Senator Vratil said, "I believe Senator Apple makes a good point because where we've drawn the line in this proposal was rather arbitrary. If you're a student in the Coffeyville school district with 53.62 percent free lunch students, you don't get any money. But, if you are a student in the Topeka school district with 54.01 percent, which is 39/100 of one percent difference, you do get money. The rational basis for drawing the line there does not exist, and the Court said we have to have a rational basis for what we do." Senator Schodorf noted that the original proposal included 20 districts.

Senator Lee commented, "We were trying to figure out some way to find a logical way. Every logical way we could find, there was always going to be somebody that's right below that. For instance, if you say that they have to have 50 percent, then you go down and there's Lyons at 49.44 percent, or if you say 45 percent, then you go to Hutchinson, and there's 44.99. The same way if you are going to use density. There's always somebody that's right under it." Senator Steineger commented, "The notion of a high-at risk weight or density weight came out of the Post Audit study, which I had never heard of before then. If we use the phrase 'density,' that, to me, implies a certain amount of population per square mile. Certainly I can see it in parts of eastern Wyandotte where it's a dense and very poor area, but I personally believe it does make a difference. I think achievement is even harder when we have a poor kid surrounded for miles by nothing but poor neighborhoods. They just have fewer and fewer role models and examples of success."

At this point (1:30 p.m.), Senator Schodorf recessed the meeting until 1:45 p.m. because she was scheduled to testify on a bill in a House committee. The meeting resumed at 2:00 p.m. at which time Senator Steineger resumed his comments on high at-risk. He stated, "I think we need to keep a definition of what high-density at-risk means, and that means the number of poor kids, or poor families, or under proficiency kids in a square mile. A poor person living in the country would be better off than a poor person living in a urban core area. It's just that much harder to have good role models and have them be away from a lot of the dangers of urban life. So I think we need to keep the high at-risk weighting in general, and I think it needs to have some kind of a density measurement. Senator Vratil responded, "I understand that each one of us may have our feelings, and some of us may feel it's just intuitive that at-risk students in the urban areas present more difficult problems in education than at-risk students in rural areas, but is there any research to show that at-risk students in urban areas are more difficult to educate than at-risk students in rural areas?" Senator Steineger replied, "Our Standard & Poor's guys that were here the other day alluded to that fact. In fact, they indicated that there was some substantial research to show that urban at-risk is a lot more difficult to fund and to educate."

Senator Apple commented, "We're strongly considering spending \$10 million, but not knowing exactly what the problem is and not knowing exactly what the solution is. If those are legitimate concerns, I go back to how do you draw the line between the fifth and the sixth district, I think it needs some study. I think it needs greater understanding before we go down this road of spending more money on it. And, if we can understand it better and we can come up with some solutions, I'm 100 percent in support of trying to fix the problem. But I'm very reluctant to spend money on something that we don't even begin to understand." In response, Senator Schodorf said, "We do understand it, and I would take exception to that. And we do know that children who start school who are at-risk have less education, have less preparation. Some of them don't know their colors, don't know their numbers, don't have some of the concepts that other children whose parents have more abilities. We do know that all-day kindergarten will help decrease that gap. We do know that staying in school longer days and that tutoring and summer schools will also help decrease that gap. We know what to do with kids and how to help them, how to decrease the gap. It's a matter of having the funds to be able to provide the extra time. It's time that's the factor here. The Post Audit is a scientific audit, independent. No one had ever brought this up before. It was a totally new concept. And for years, we've been trying to describe why it's more expensive to educate kids of poverty than it is other kids. We've concurred also that, if you're a poor kid in the country, you're not as poor as you are in the city. And what part of that is, is the framework, the foundation that the kids have at home. It may not be any fault of their parents, but

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when you are looking for a job or you don't have food on the table and a neighborhood has the same problem, or you are sandwich generation, that you have three or four generations in the same house, sometimes the priorities are different. And it just takes more money. That's why, I think, Post Audit realized this and that they included this area."

With regard to limiting high at-risk to five counties, Senator McGinn commented, "Where do we draw that line? Do we go back to looking at percentages or what, if we're going to stay with it. To me, that is the question." Senator Teichman added, "I was just curious if you could give us some insight on why they go into the five and didn't expand it to six which would be a more equitable breaking point." Senator Schodrof said, "As I recall, there were 20, and there were discussions. There were 20 districts, and that was \$20 million. And then somebody suggested the top five so that there would be more money either to be cut back or to go somewhere else. The other \$10 million went into regular at-risk." Senator Teichman responded, "If we're going to try to make something rational out of that, then it ought to be anything that's 50 percent or above." Senator Vratil asked, "Why is it any more rational to break it there than it is some other place? Because we've got a district at 49.44; that's the next one." Senator Teichman explained, "I just thought, if you break it at 50 percent, it does give it at least a common place. If you break it at an even number, it makes a little more sense."

Scott Frank, Legislative Post Audit, explained, "When we were looking at this for the cost study, we measured urban poverty using the density measures, and that mirrors what has been used in the House. We faced the same dilemma of where do you break this in terms of who's going to get the weight or not. So we actually stepped away from density entirely and used the definition that said, 'any district that was part of a census Category 1 or 2 city.' Wichita is the only Category 1 city. Category 2 would be the Kansas City area, Lawrence, Topeka. So anyone who is in Census Category 1 or 2 and has above-average poverty – That's how Turner gets picked up in there, because, being part of Kansas, they are a Category 2 community. They are above-average poverty, and the average is about 28 percent. There's nothing magical about above-average. It seemed rational, kind of like 50 percent. It's a number that we picked because we were having trouble figuring out where in the density breakdown would you actually pick a district. So we went to the census categories."

Senator Lee commented, "Those of us who have some acquaintance with Dodge City understand that it has some of the very same problems that Wichita and Kansas City have. The only reason they didn't make the density factor is because it has a few more square miles in its district now. You can take those 300 square miles off, and there's no students in those square miles. It just happens to be the luck of the draw. But if you look actually at Dodge City itself, within the confines of the city, you would find a lot of the same issues that Kansas City and Wichita have because of the diversity of their population and, I suspect, because of the income of the population." Senator Teichman added, "I'd also say that's the same conclusion we could draw with the Liberal and the Garden City area. I was surprised that when they figured this out that Garden City was not in it because Garden City has some of the same if not more problems than Liberal has, only it is spread out in a larger area and; therefore, it wasn't counted as much. But Garden City has a very high at-risk; they have a very high population of bilingual along with Dodge City."

Mr. Frank directed the Committee's attention to copies of a memorandum prepared by the Legislative Division of Post Audit regarding a high-poverty weighting factor. (Attachment 7) He noted that, in accordance with a request made by a Committee member at the March 7 meeting, Post Audit conducted an additional analysis of the cost function results to develop a potential high-poverty weighting factor. He explained, "Rather than focusing on an urban poverty weight, we went back and said, is there evidence in here that, as the percent of kids in poverty goes up, the cost would go up – as you move from relatively low poverty to relatively high poverty, does the amount per kid need to go up. What we've done here is group the districts into 10 percent bands. Basically, as you go through the first three bands, districts that have between 0 and 30 percent poverty, you end up with basically the same costs for those kids. But then, starting at 30 percent and working your way up, you see an ever increasing amount that each kid would necessitate. That culminates at the 60 to 70 percent group where the total weight has an additional component of about .189. That additional component would have the equivalent of what you have in your bill, the high at-risk. What this would give you would potentially be a way to gradually increase the weight so that you don't have the notion of, do I get the weight or do I not get the weight. You're either in or your out. This one is arranged in kind of a stair step fashion, so you would still have people that might be right on the border that if they just had more one kid in poverty, they could

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move to a higher rate. If there was an interest, this could also be arranged into something more like the current low enrollment curve where you've actually got a curve to it so that each additional kid in poverty inches you further up on that curve so you don't have those stair steps where there might be incentives to go out and identify one more kid to push you over the top. That's what this document was – just to give you something that, based out of the cost study, has a little different way of looking at it.”

Senator Schodorf stated, “The question is, do you want to include this and how and what districts?” Senator Goodwin commented, “I think all of us are probably struggling as to how do we do this and which ones do we pick. I would think that we should go with the four that the Post Audit put in there. They were the ones that were in those schools and made the recommendations. They surely made those recommendations on something more than what we have before us.” Senator Schodorf noted that Post Audit's top four were Kansas City, Wichita, Topeka, and Turner. Senator Steineger said, “I think, for two reasons, we should go with the Post Audit study. One is, there is compelling evidence, science based evidence, that urban poverty kids take a little more effort to educate. The number two reason we should go with the Post Audit study is, we need something that's defensible in court, and the Post Audit group has a stellar reputation for doing good quality work. We all know it. Everybody in the state knows that. Indeed, the state Supreme Court relies to some degree on the Post Audit studies. I think that would give us a good rational basis and give defensible rationale for why we include this weight. In fact, we can refer to the rigorous Post Audit review that came up with this suggestion.”

Senator Goodwin moved that the proposed Senate plan use the top four school districts included in the Legislative Post Audit study as high at-risk, seconded by Senator Steineger.

Senator Lee commented that Post Audit struggled with the same rationale that the Committee was struggling with, which shows that, on this particular issue, they probably were no more of an expert than the Committee. She noted, “If you go with the top four, then Turner gets funding. Turner that has 35 percent of their students at-risk, gets special funding. And Dodge City, which has almost 57 percent of their students at-risk, doesn't get the extra money. That simply is not logical. They have just as big of problems.”

Senator Lee made a substitute motion to stay with the five high at-risk districts in the original Senate plan, seconded by Senator Teichman. The substitute motion carried.

Senator Lee moved to include the high at-risk weighting as part of the proposed formula, seconded by Senator Teichman. The motion carried.

With regard to special education weighting, Senator Schodorf noted, “In this plan, it goes from the current level of 89.3 percent and increases for next year to 92 percent to 95 percent the second to 98 percent the third year.”

Senator Teichman moved to fund special education as proposed in the Senate plan (SB 584), seconded by Senator Lee. The motion carried.

Senator Schodorf noted that the supplemental general state aid (LOB) in the proposed plan was current law.

Senator Vratil moved that the Committee accept the supplemental general state aid as reflected in the proposed plan, seconded by Senator Goodwin. The motion carried.

With regard to correlation weighting in the proposed plan, Senator Schodorf noted that there were no changes in year one or two, but there was a change in year three.

Senator Lee moved that the Committee accept the correlation weighting as reflected in the proposed plan, seconded by Senator Vratil. The motion carried.

Senator Schodorf began a discussion of additional equalization to LOB from 81.3 percent to 100 percent for the first 2.5 percent. Senator Vratil commented, “Through using this, what I call LOB recapture, which is not just an accounting gimmick, it has real substance and provides new spending authority to districts; it's a way

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for us to leverage \$38.2 million new dollars to, in essence, claim credit with the Supreme Court of \$108.9 million new dollars. That sounds like an accounting gimmick, but it's not because we've been spending this money to equalize the LOB for years and not getting any credit for it, and Legislative Post Audit did not take that into consideration. This is an effort to get credit for the dollars that we're really putting into the K-12 school system." Senator Lee added, "Currently in the 2005-06 school year, there's a total of \$660 million that goes into local option budget; \$441 million of that is paid by the local property tax, but \$219 is paid by state dollars, and we get no credit for that in the study that was just done. Those are state dollars that are being dedicated every year, and I think we should get some credit for that in terms of funding. This actually puts \$38 million new dollars in that goes out to the different districts. It may not be a perfect way that it goes in, but when you the dollars that are paid by the local district, it does provide an additional amount to the poorer districts."

Senator Apple responded, "When the local option budget was started, it was started to provide school districts a means to have enhancements. I believe the first LOB legislation had a sunset on it. I was serving on a school board at that time, and I know we were very careful in not obligating those dollars towards continuing funds because of our understanding that they would go away someday. That, of course, never happened. But as part of that local option budget that has grown over the years, exceptionally passed over the last four or five, it places more and more reliance on property tax. Historically, the equalization has been used to help property tax reduction, and that's where we started setting a 79 percentile and going down to the poorest of districts where, I believe, is 40 percent of the money would be locally and 60 percent would be supplemented by the state in the form of trying to keep their tax dollars low. Last year, we raised it up to 81.3 percent. It is my understanding that last year was also used for property tax equalization. This year, we're calling it equalization, but it's my understanding that those dollars don't go to equalize property tax; they are actually going to create more authority, which causes severe angularities in the budget process. If you look at Burlington, which is the standard bearer as the richest district, as we go down from Burlington, they don't receive additional authority. But a lot of districts do receive additional authority. How that breaks out, I really don't know. But I think the way that equalization has been changed presents some inherent problems as far as fairness, and is it exactly what we want to do?"

Senator Lee commented, "You almost have to look at the additional equalization and the mandatory together. If you do the mandatory, that goes hand in hand with the equalization. I share some of the concerns that Senator Apple has mentioned. What I'm looking at now is the LOB recapture – March 8 in the Senate Education Committee – and it deals specifically with 2.5 percent. What I wanted to compare was two school districts to give you some idea of something what I got from it. If you go to the fourth page near the bottom, you'll see Johnson-Shawnee Mission, and we're going to compare it with Fort Larned, which is two more pages over. Fort Larned is in Pawnee County. These are just two that I happened to pick out. Fort Larned is one of the poorest. Shawnee Mission is one of the wealthier, but it's not the wealthiest. If you go over to column four, you will see the local taxes that will be collected from the additional 2.5 percent. You will see that the next column over shows that Shawnee Mission has 1.28 mills. Currently, they collect \$3.8 million from those 1.28 mills. You will also see in column three, which is the equalization we currently get under the 81.3 percent equalization. They don't get anything. When you take that equalization to column six, when you take that from 81 percent to 100 percent equalization, you will see that Shawnee Mission gets an additional \$2.9 million, which is a heck of a lot of money. But when you compare that to the local taxes that they currently raise, that's 78 percent. So they get 78 percent more. But then you look at Fort Larned, which is two pages over, they have to have a little bit mill levy, 2.34. That brings in \$96,757. Currently for that \$96,000, they get \$72,000, which is 75 percent of \$96,000. Now, remember, Shawnee Mission gets zero. But then you add to that, with this new equalization, they get an additional \$81,000, which is an additional 84 percent, which means, with the 2.5 percent equalized to the 100th percentile, they end up with 1.59 times the money they would have otherwise from the property tax they generate where Shawnee Mission ends up with .78. I'm trying to show you, apples to apples, that this does, in fact, give more money to the poorer districts."

Senator Vratil clarified for Senator Apple, "It is based on wealth, because where you fall on the scale is based on wealth. And that's why it's not arbitrary. There's a rational basis for it because it depends on school district wealth as measured by assessed valuation per pupil. You're not giving districts varying degrees of authority. In order for the Legislature to make a legitimate claim to count this as state aid, it has to be mandatory. It cannot be discretionary. Once it's mandatory, you cannot use it to reduce taxes, because, if the

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taxes were reduced, then school districts would not receive the mandatory amount. This is not intended to be a property tax reduction mechanism at all. If it becomes a property tax reduction mechanism, then we can't claim it as state aid anymore."

Senator Lee moved to accept the proposed additional equalization to LOB and the mandatory LOB to the General Fund, seconded by Senator Vratil. The motion carried with Senator Apple voting "no."

Theresa Kiernan, Revisor of Statutes Office, distributed copies of an amendment to clarify **SB 584** in New Section 2 concerning the mandatory student performance improvement budget. She explained that, as drafted, the bill actually did provide tax relief; therefore, she struck the current provisions of New Section 2 and reinserted the language with the addition of subsection (d) (1). (Attachment 8)

Senator Vratil moved to amend **SB 584** as suggested by Ms. Kiernan, seconded by Senator Goodwin. The motion carried.

Senator Lee briefly discussed the non-mandatory (unequalized) portion of the propose plan. She explained that the provision would allow school districts raise the LOB level back to the 29th percentile plus 2.5, 30 plus 5, and 30 plus 6. Senator Vratil added, "Let's take next school year just as an example. If you take 2.5 percent off the bottom of the LOB, that's no longer part of the LOB. But now it's not a local option budget, it's a mandatory budget, and that's the only way it can be counted as state aid. So when you remove that from the local option budget, you really reduce the maximum local option budget from 29 to 26.5, and that's in this bill. For next year, the LOB would be half of the 26.5 percent. What this provision is intended to do, is to be consistent with the deal that was struck last year to give school districts a maximum 29 percent LOB in the '06-'07 school year. And the way it does that on a totally discretionary basis is to allow school districts to go from 26.5 to 29; they don't have to, totally discretionary; with no equalization paid. So all that money will come from their local payers and won't cost the State of Kansas. Next year, the cap on the LOB will go to 25, and what I'm calling the LOB backfill, would go to 30."

Senator Vratil went on to say, "The disparity in spending has been increasing each year, not as a result of the local option budget, but as a result of changes to the funding formula, basically, increases in at-risk and low enrollment weighting. If I use the school districts in Johnson County as an example, because they are often mentioned as those who are taking advantage of the local option budget, Shawnee Mission is at the 9th percentile in spending per pupil, \$7,547 per pupil. That means 91 percent of the school districts in this state spend more than Shawnee Mission. Every school district in Johnson County is at the 16th percentile or below. So the facts don't support the argument that this provision will increase disparity in spending. What the Supreme Court didn't consider were these facts that I just showed you. They didn't consider them because they didn't have them in the record of the case."

Senator Allen commented, "We all know that Johnson County pays far more than it's fair share, and what this provision would do, it would allow us to choose to tax ourselves if we want to do that. And I guess, for those of us from Johnson County, we don't understand why the rest of the state wouldn't want to allow us to tax ourselves if we so choose. That's all we're asking." Senator Lee commented, "It's not whether or not we want to be able to tax ourselves. In fact, I can go back to many of my districts and my districts, even with equalization, have voted higher property taxes upon themselves than Johnson County has. We can't go to 27 percent because we can't afford 35 mills, but we are at a higher number than you are to get to the 12 percent. It's not that the people don't want to tax themselves that they can afford. And, once we allow the very wealthy areas of the state to be able to fund their education, we've unequalized dollars. There is no reason that we should ever vote for anything that provides equalized dollars to the rest of the state. We would be foolish if we did. The problem is what it does long term for the funding of education and for the equalization of the funding for education."

Senator Allen moved to leave the LOB backfill in **SB 584**, seconded by Senator Vratil. The motion carried on a 4 to 3 hand count.

Senator Teichman opened a discussion on the inclusion of a three-year phase-in of all-day kindergarten in the plan as proposed by Senator Steineger at a previous meeting. Senator Steineger reminded the Committee that

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a memorandum prepared by the Kansas Department of Education at his request included a response to his suggestion for all-day kindergarten along with a suggestion for funding Parents as Teachers programs.

Senator Teichman moved to include a phase-in of all-day kindergarten in **SB584** as proposed (\$15.4 million in 2007, \$23.5 million in 2008, and \$30.8 in 2009 in new money), seconded by Senator Steineger.

Discussion followed as to whether or not the new provision for flexibility in the use of new at-risk funding recommended could be applied to all-day kindergarten. Senator Vratil noted that, in Mr. Dennis's opinion, the new at-risk money which the Committee had just agreed to recommend could be used for all-day kindergarten. He went on to say, "The problem as I see it is, if you add all-day kindergarten as a program that school districts throughout the state can offer, you're adding a new program, you're increasing the costs that the Supreme Court is going to consider, and you're exacerbating the problem in complying with the Court's order." Senator Teichman, responded, "I don't think we're adding any program since we already fund half day kindergarten. So it's just an increase to all-day kindergarten. I know that it's a lot of money, but I know that there is a lot of interest in funding it. I do think that this is something that everybody across the state that I have talked with is very interested in funding. It still is on a voluntary basis. It doesn't mean that every child would be doing it. This would just pay for those kids who opted into all-day kindergarten. It would not pay for those who did not opt into all-day kindergarten."

Senator Pine commented, "I guess I'm disappointed if we put as money in here as we are talking about putting in, and we don't offer a program that seems to be supported by most of the people that I know in the educational system in terms of helping kids get off to the right start, especially those at risk. So I'd be disappointed if we cannot include that in this program without adding more money and without creating a problem. Mr. Dennis commented, "I think it would be helpful if you would clarify if you want to authorize the use of at-risk dollars." Senator Pine suggested that clarifying language be added to the proposal. Senator Teichman said, "What I would like to see, is additional money put into all-day kindergarten to fund those students who choose to go kindergarten all day. The schools have an option as to whether they implement it, and the child has the option whether they choose to go all day. This is to be used for all kindergarteners whose school offers all-day kindergarten and who choose to go all day." She confirmed that it was not her intent that at-risk money be used for the program.

On a call for a vote on Senator Teichman's motion, the motion failed.

Suggesting that existing funds be used, Senator Teichman moved to amend the at-risk provisions to include bilingual, vocational, and all-day kindergarten, seconded by Senator Pine. The motion carried.

Senator Vratil moved to recommend **SB 584** favorably for passage as amended, seconded by Senator Goodwin. The motion carried with a 6 to 5 vote.

Other information distributed for the Committee's information included a State General Fund Profile Summary of Ending Balance Amounts for **SB 584**, **SB 501**, and **H 2986** prepared by the Kansas Legislative Research Department (Attachment 9) and a letter to Senator Steineger from Kenneth Daniel, Midway Wholesale, regarding comments made in his testimony at a previous meeting concerning the role that poverty plays in education (Attachment 10).

The meeting was adjourned at 3:30 p.m.

The next meeting is scheduled for March 14, 2006.

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