

MINUTES OF THE SPECIAL SESSION SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 12:15 on June 21, 2005, in Room 519-S of the Capitol.

Committee members absent: Barbara Allen- excused (Karin Brownlee appointed for Special Session)

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: Duane Goossen, Director, Division of Budget
Alan Obley, Office of the Governor
Mark Tallman, Kansas Association of School Boards
Fred Kaufman, Schools for Fair Funding
Robert Vancrum, Blue Valley U.S.D. 229
Susan Hernandez, Emporia School District
Kathryn Taylor, Dodge City School District
Mark Desetti, Kansas National Education Association
Stuart Little, Shawnee Mission School District
Val DeFever, Schools for Quality Education
Dale Dennis, Deputy Commissioner, State Board of Education
Barbara Hinton, Legislative Post Auditor
Connie Owen, Patron of U.S.D. 233 (Olathe)

Senator Schodorf informed the Committee that there were three gaming bills, and the Ways and Means Committee had just taken a straw vote on the gaming bill which includes two zones, Wyandotte County and Crawford County, which have previously approved gaming. The bill would allow counties to have a public vote on whether or not to have gaming. If the voters approve gaming, the county would come to the Legislature with a plan. She noted that the bill would also allow slots with a vote of approval by the people. She explained that the Ways and Means Committee planned to tie education funding to that bill and appropriate the amount recommended by the Education Committee.

Senator Schodorf called upon Duane Goossen, Director of the Division of Budget, for a brief review of a Standard and Poor's school district study, which had not yet been completed. Mr. Goossen explained that the state made a contract with Standard and Poor's last winter to do an accountability study of Kansas school districts, and the study was being paid for the Kaufman Foundation. He noted that there were two key questions that spawned the study and the development of it. One was, "Why is there such a range in spending patterns across Kansas school districts?" Spending patterns between classrooms, administration, operations, maintenance, etc. on the average are not appreciably different from the national averages. But a look at individual school districts shows that there is quite a range of how schools spend their budgets out on various categories. The study suggests that there are clearly different strategies that the school districts use in approaching and spending their budget. The second question was, "Why is that, and what are the best practices that well-run school districts use?" The purpose of Standard and Poor's study is to identify the districts that are running efficiently, choose several of those to look at in depth, and then finally produce a report about Kansas school districts that will include clear indicators of how an efficiently run school district operates.

Mr. Goossen noted that the study began in December, but it has not moved as fast as was expected. The first part of the report, which is expected in mid-August, will identify the districts in Kansas that are termed "resource effective districts." Then, in consultation with the Department of Education and with the state, four different sized districts will be selected and looked at in much more depth. A report on those four districts will be issued in October. By November, an overall state resource study report will be finished. The study will include broader benchmarks which all school districts can look at and use as guide on how to run their own districts. Mr. Goossen noted that the end result of the study would not be a determination of how much it costs to run school districts in Kansas, but rather it would be an attempt to identify which school

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districts are using the money that they do have the most efficiently and to identify the best practices that school districts can use to run an efficient operation.

Adam Obley, representing the Office of the Governor, explained that the Standard and Poor's study would be looking at districts which are comparable in terms of their demographic profile so that it will be an "apples to apples" comparison in determining which districts are getting the best results in terms of student achievement. The next step they would be to find if there are patterns and how high achieving districts are allocating the resources they are given. Senator Vratil commented that, in order to ensure an "apples to apples" comparison, it was important that Standard and Poor's verify if each of the school districts was using the same definitions in reporting data.

For the Committee's information, Senator Schodorf distributed copies of Standard and Poor's preliminary data comparing school districts with regard to the percentage of the budget spent in various categories (Attachment 1) and with regard to the average percentage of the budget spent by school district size group (Attachment 2).

Mark Tallman, Kansas Association of School Boards, testified on behalf of a number of school districts and organizations listed in his written testimony. He explained that, following the action by the Supreme Court, the school finance coalition met and recommended an approximate allocation of dollars for special education funding, at-risk weighting, base budget per pupil, and equalization of capital outlay funding. The group also strongly supported changing the criteria for the suitable cost study to comply with the Supreme Court's criteria. As background information, Mr. Tallman called attention to a chart on the second page of his written testimony showing how students in Kansas and nearby states performed on the 2003 National Assessment of Education Progress as well as current expenditures per pupil and how the schools allocate resources to instruction and support. He pointed out that, while Kansas is a moderate spending state, students achieve well. He noted that the data shows that there is a correlation between the amount of money states spend on education and the results they get, and there is not a correlation that suggests that spending a higher percentage on instruction as opposed to other areas increases performance. He called attention to a chart on the next page regarding national data on spending and school performance which showed that the most efficient states in terms of student achievement tend to spend less on instruction and more on teacher and student support. He pointed out that the final two pages of his testimony which addressed the broad budget categories that school districts must use for school district expenditures and the statewide percent of operating expenditures for 2003-04 for each area. (Attachment 3) In conclusion, Mr. Tallman stated, "We continue to have concerns and hope you clarify your interest in the idea of building base budgeting because our major concern is that we not adopt some new mandate that will actually have a cost that will be non-instructional. We do not believe that the Court intended part of the \$143 million to go for property tax relief. If that is part of a larger plan, we do not necessarily oppose that, but we don't think it should be part of the \$143 million."

Fred Kaufman, Chair of Schools for Fair Funding (SFFF), discussed the \$148.1 million school finance plan recommended by SFFF. He noted that SFFF recommended that the Legislature fund the areas addressed by the Court rather than areas that are not addressed by the Court. He explained that two important issues (buy down of local option budgets and equalization of funding for capital outlay) were not part of the SFFF plan because they were not specifically emphasized by the court system, and they do not go directly into the classroom. He contended that the SFFF plan would put the Legislature on the road to properly complying with the Supreme Court's order, and no part of the plan would increase inequities in the Kansas school finance formula. (Attachment 4)

Robert Vancrum, representing Blue Valley U.S.D. 229 (Johnson County), pointed out funding disparities for all Johnson County school districts, which are in the lowest 15 percent of districts in per pupil operating expenses. He noted that Blue Valley will receive the fourth lowest per pupil amount out of 302 districts, and the other five Johnson County districts are in the bottom 25 districts. He explained that the Court took away the Johnson County schools' ability to keep pace by excluding an increased LOB or a cost of living weighting. To correct disparities for Johnson County, he supported the re-enactment of the LOB and cost of living weighting provisions and the reinstatement of correlation weighting. (Attachment 5)

Susan Hernandez, representing the Emporia School District, noted that there has been a significant increase in the number of Hispanic students the Emporia community in the past 15 years, and currently the student

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population is 42 percent Hispanic and 49 percent White. She went on to discuss the following challenges created by this change : language differences, lack of formal education or interrupted schooling, and cultural diversity. She pointed out that nearly all of the bilingual fund is being spent on personnel and professional development with less than one percent allocated to supplies. She noted that, even if the bilingual weighting were doubled, the actual costs of delivering English Language Acquisition (ELA) services would not be covered. She emphasized that additional funding, when applied wisely, would have a profound impact on improving the educational levels of students across the state. (Attachment 6) For the Committee's information, she distributed copies of a packet of graphs and charts regarding ELA services. (Attachment 7)

She noted, "There are many pieces of information that our teachers must do based on No Child Left Behind. It is not a choice. We have must have individual outcomes plans on students. We must notify parents in their native language. We must be able to work with parents and families in a way that very much looks like special education."

Kathryn Taylor, representing the Dodge City School District, urged the Committee to listen carefully to those who are in the field working with those who cannot speak for themselves but, nonetheless, should be guaranteed adequate and equitable access to an education. She went on to say that, at the request of the Department of Education, the Dodge City School District completed an analysis of the funding necessary to adequately fund the programming needed to provide equitable access for the diverse student population in the district. She emphasized that the students in Dodge City public schools should not have their education dependent upon supplemental funding from federal grants but should be guaranteed access to funding provided by the state. She maintained that the increases she recommended for the "regular student," the at-risk student, the bilingual student, and the retention of highly qualified teachers were not unreasonable because they reflect the fiscal, personnel, and material resources necessary to help each Dodge City student achieve proficiency on state curriculum standards. She noted that the funding recommendations did not include adequate funds to address the growing need for additional classrooms due to an increase in the student population over the past decade. (Attachment 8)

Senator Schodorf called the Committee's attention to copies of written testimony submitted by Marvin Estes, Winfield Superintendent of Schools. Mr. Estes' testimony addresses the increasing costs of special education in Cowley County. (Attachment 9)

Mark Desetti, Kansas National Education Association, commented on the issue of putting money in the classroom, using Mr. Tallman's testimony ("What Schools Do and Why They Do It") as a guide. He concluded that, while no one would argue that more money on instruction would improve learning, he would argue that getting there by gutting the other expenditure areas was not the way to do it. (Attachment 10)

Stuart Little, representing Shawnee Mission School District U.S.D. 512, pointed out that Shawnee Mission educates 6.5 percent of the entire student population in the state with the 11th lowest expenditure per pupil in the state and the second lowest administrative costs. He emphasized that enrollment decline has placed a strain on the district because expenditures cannot be reduced as fast as funding declines. He noted that the Shawnee Mission School District urged the Legislature to act during the special session to move toward increased funding for all Kansas school districts and that the district continued to support local control and local funding initiatives. In addition, the district believes that the distribution of funds not designated for a weighting factor should not be made through the formula as adjusted in **HB 2247** and **SB 43**, but rather on a less disequalizing basis. On behalf of the district, Mr. Little encouraged the passage of legislation that satisfies the needs of all districts and the Supreme Court. (Attachment 11)

Val DeFever, testified on behalf of Schools for Quality Education, a group of 124 low enrollment, rural school districts. She noted that the districts' costs have risen significantly while state funding has been relatively flat for the past four years. As a result, small rural districts have cut corners and merged many services, but they continue to focus on a quality education for children. She went on to say that small schools are able to deliver a quality education because the community is committed to their children. In her opinion, it would be appropriate to wait until the Post Audit cost study was completed before initiating any changes in the present funding formula. (Attachment 12)

Carolyn Rampey, Kansas Legislative Research Department, distributed copies of a chart comparing the

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provisions in **HB 2247** with school the finance plans proposed by Senator Schmidt, by Senator Hensley, by Senator Vratil, and the Senate Education Committee decisions as of June 20. (Attachment 13) She explained that the amounts shown for the plans were in addition to what is in **HB 2247**. With regard to the “At-Risk” amounts, she reminded the Committee that it depends on what the base is as the amount is a rate multiplied times the base. Therefore, if the base is different, even the same percentage for at-risk will be a different amount of money. She noted that there would be a fiscal impact on the items showing “not calculated;” however, it was not known when she prepared the chart.

Senator McGinn began a discussion regarding the calculation of bilingual FTE, an area that she felt was important to focus on. Kathy Sparks, Kansas Legislative Research Department, clarified that two hours a day is the statewide average, but it is actually calculated by the number of contact hours in approved programs that qualify for the funding. Following discussion, it was the consensus of the Committee that the subject should be addressed after the Legislative Post Audit cost analysis study was completed.

Dale Dennis, Deputy Commissioner, State Department of Education, distributed copies of a Department computer printout, which was based on the school finance plan proposed by the Committee on June 20 for the purpose of equalization for all school districts. He discussed the items listed on page two of the handout, noting that the Education Committee’s June 20 decisions increased funding for education by \$310,828,000. (Attachment 14) He went on to say that he had computed the following amounts needed to complete the “Comparison of Proposals” sheet distributed by Ms. Rampey with regard to the Senate Education Committee’s plan: (1) BSAPP, \$30,100,000, (2) Bilingual, no change, (3) Special Education, \$21.7 million, (4) LOB–Growth Due to BSAPP Increase, \$7.6 million, (5) Correlation Weight, \$29.8 million, (6) Capital Outlay, no change, (7) FTE, no change, (8) Cost-of-Living, none, (9), Declining Enrollment, none, (10) KPERs Growth, \$2.5 million, and (11) LOB Equalization, \$30.4 million. As committee members began discussing the data, Senator Schodorf reminded them that there had been considerable interest in increasing the base, the inclusion of correlation weighting, and equalization of the LOB. Mr. Dennis participated in Committee discussion regarding equalization which followed by responding to questions and suggestions by committee members.

Senator Vratil moved to adopt the proposal as reflected on the second page of the Department of Education’s handout with the following modifications: reducing the amount of money for the local option budget property tax buy down from \$30.4 million to \$27.4 million, reducing the correlation weighting amount from \$29.8 million to \$26.8 million, reducing the base state aid from \$93.4 million to \$90.4 million, and instructing Dale Dennis, Department of Education, to back into the percentages that will result, seconded by Senator Teichman. The motion carried.

Senator Schodorf opened a discussion on the request by Barbara Hinton, Legislative Post Auditor, that the Legislature clarify what kind of cost analysis study (outcomes or input approach) was to be conducted and to clarify the date. Senator Vratil commented, “I don’t think we’ve got a whole lot of choice about which approach we take with the cost analysis study. The fact of the matter is, the State Board of Education regulations for accreditation of schools includes student performance standards. They include outcomes. And the Supreme Court says very clearly that, in order to have a valid study, we have got to include outcomes in that study. So, if we chose to do the study based on input only, there is about a 99.9 percent chance the Supreme Court is going to say that’s an invalid study.” Following committee discussion, Senator Vratil commented, “I don’t think we can adequately protect ourselves from this particular study. We will have to respond to the results of this study, whatever those results are and whatever the Supreme Court says about it. But we do have the opportunity in the future to change the standards that are driving the costs that are being measured by the study. And at some point, we’ll probably have to do another study. But we’re going to have to do periodic studies regardless. The Court has indicated very clearly that school funding is not a static situation, that it changes year by year. And so we can expect to do a cost analysis study in a few years for the foreseeable future if that’s what the Supreme Court is requiring.”

At this point, Senator Schodorf noted that the Schmidt Republican Plan bill included language about the outcomes approach. For the Committee’s information, Theresa Kiernan, Revisor of Statutes Office, distributed copies of the bill draft, noting that it was a work in progress and that the Division of Post Audit cost study addressed in Section 11 involved inputs. She explained that the issue was addressed by changing the reference to related services and other programs mandated by “state statute” in accredited schools to

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mandated by “law,” which includes rules, regulations, constitution, statutory law, and court decisions. She explained further that the following language needed to be added after “accredited schools”: “and the costs of meeting the students performance outcomes required by the State Board of Education’s accreditation requirements.” Senator Vratil suggested that, instead of “mandated by law,” the language could be changed to read “mandated by statute, rules and regulations” to clearly include the Board of Education’s rules and regulations. Ms. Hinton commented that Senator Vratil’s suggested language could mean that both an input and outcomes study would have to be conducted by Legislative Post Audit. Senator Vratil explained that the language was intended to include the inputs mandated by state law and the outcomes mandated by the State Board of Education. In response, Ms. Hinton explained, “You can’t limit an outcomes based study only to inputs mandated by state law because there may be other non-mandated things. One study can’t do both things. I think, if you leave in the cost of delivering these things and the cost of leaving out some, I think that says you would need to do both types of analysis.”

Senator Vratil asked Mr. Obley how the study takes into account the factors that affect a student’s achievement level over which the school district has no control. Mr. Obley responded, “To the extent you can measure them, you put them in the model. Some things are measurable, some things are not. For instance, one of the things people would like to be able to measure is who is really an at-risk student. An at-risk student is not merely a student that comes from an impoverished background. You can’t really come up with a good measure because there are a lot of factors there. However, what you can measure are different levels of poverty which are correlated with that. And so to the extent that poverty seems to influence cost, you put that in the model to the extent that someone being an English language learner affects costs. There are certainly things we talk about – you know, what kind of family do they come from, do their parents read to them, are they supportive of education. You have no way of measuring those, and so that’s a simply a shortcoming. This methodology and really any methodology is not going to be able to get at that. So, it’s to the extent that we can measure things, we access relationships.”

Senator Vratil suggested that the language in the bill be amended to read, “mandated by State Board of Education rules, regulations, and accreditation standards as of July 1, 2005.” Ms. Hinton supported his suggestion. The Committee directed Ms. Kiernan not to use the words “state statute” or “state law”, to use “rules, regulations, and standards adopted by the State Board of Education effective July 1, 2005,” and to delete the current language limiting the study to inputs and in lieu thereof determine the cost of meeting student performance outcomes required by the State Board of Education accreditation requirements.

Ms. Kiernan pointed out that in subsection (b) (1), language was added to address the Court’s concern that the study did not consider the school performance accreditation system, pupil assessments and other requirements of K.S.A. 72-6439, and any other requirements or standards the State Board adopted under its constitutional powers under Section 2 of Article 6 of the Constitution or other law. In addition, she noted that the court’s concern that the study include all administrative costs was addressed in subsection (4) and subsection (5)(C). She noted that subsection (8) includes a provision allowing Post Audit to use historical data and expenditures to determine future reasonable and actual costs as long as they correct any recognized inadequacy in the data or expenditure through a reliable method of extrapolation. The cost study must demonstrate how the incorporation was accomplished.

Ms. Hinton distributed a handout entitled, “Comparison of Performance Criteria effective before and after July 1, 2005,” relating to an outcomes study. ([Attachment 15](#))

Senator Vratil moved that reference to the State Board of Education rules, regulations, and standards be included in the language of the bill discussed and that other language be added to make it clear that the Legislature was directing an outcomes based study only and that the study was to be conducted based upon historical data available through the 2004-05 school year based upon student performance standards in effect on July 1, 2005, for the 2004-05 school year, seconded by Senator Goodwin. The motion carried.

Connie Owen, a parent from U.S.D. 233 (Olathe), urged the Committee to increase funding for public schools as ordered by the Supreme Court and, if necessary, to raise taxes to adequately fund public schools. She also called attention to copies of e-mails to legislators from 22 persons who support increased funding for schools and tax increases to ensure the quality of Kansas schools. ([Attachment 16](#))

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Senator Schodorf listed the topics to be considered for inclusion in the proposed plan as follows: (1) date change to September 7 to allow school districts more time to prepare budgets, (2) requiring site based budgeting for districts, (3) 65 percent goal of money in the classroom, (4) hiring of an attorney for the Legislature, and (5) establishing an At-Risk Council to answer to the 2010 Commission.

Senator Vratil moved to include the cite based budgeting provision recommended in the Schmidt, et al., plan. There was no second to the motion.

Senator Vratil moved to include the 65 percent goal for instructional spending proposed in the Schmidt plan, seconded by Senator Pine.

Substitute motion by Senator Lee to put the issue of a 65 percent goal for instructional spending in a summer interim study to allow for a better understanding of what was included in instructional spending, seconded by Senator Ostmeyer. The substitute motion carried.

Senator Vratil moved to include the provision from the Schmidt plan concerning the hiring of an attorney to represent the Legislature, seconded by Senator Brownlee. The motion carried.

Senator Vratil moved to include the provision from the Schmidt plan for an At-Risk Council which would answer to the 2010 Commission, seconded by Senator Schodorf.

Substitute motion by Senator Brownlee that the provision that would be assigned to the At-Risk Council instead be assigned to the Legislative Educational Planning Committee (LEPC) to take up during the Interim, seconded by Senator Vratil. The substitute motion failed.

On a call for a vote on the original motion by Senator Vratil to create an At-Risk Council, the motion carried.

Senator Vratil explained that, under current statute, August 25 is the date by which all school districts must certify their budgets and mill levies to the County Clerk. Senator Vratil moved to amend that statute for this year only to provide a deadline of September 7 for school districts to submit their budgets, seconded by Senator Apple. The motion carried.

Senator Vratil moved to include the provision that no money from the school district's general fund can be spent for attorney fees or other costs in support of litigation against the State of Kansas or any state office, official, or agency as proposed in the Schmidt plan, seconded by Senator Ostmeyer. The motion carried.

Senator Vratil moved to include in the bill a provision authorizing the LEPC to respond to questions and make decisions regarding the cost study, all being subject to the approval of the Legislative Coordinating Council (LCC), seconded by Senator Schodorf. On a show of hands, the motion failed.

Senator Teichman moved to raise the Contingency Reserve Fund cap to 6 percent for one year, seconded by Senator Brownlee. The motion carried.

Senator Schodorf called for a straw vote (show of support) on the Committee's proposed plan.

Senator Teichman moved to tentatively approve the proposed bill developed by the Senate Education Committee, seconded by Senator Lee. The motion carried.

Senator Vratil moved to introduce the proposed bill as approved, seconded by Senator Goodwin. The motion carried.

The meeting was adjourned at 4:05 p.m. The next meeting is scheduled for June 22, 2005.

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