

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Rick Bowden at 3:30 p.m. on January 15, 1992 in room Room 519-S of the Capitol.

All members were present except:

Excused: Ruth Ann Hackler
Anthony Hensley
JoAnn Pottorff

Committee staff present:

Ben Barrett, Legislative Research
Avis Swartzman, Revisor of Statutes Office
Carolyn Rampey, Legislative Research
Shirley Wilds, Secretary to the Committee

Conferees appearing before the committee:

At the outset of the meeting, Chairman Bowden encouraged members to question and seek clarification of any aspects of the issues to be presented.

Ben Barrett. Mr. Barrett presented an overview of the first law suits challenging the school finance already passed. (See Attachment #1.)

Mr. Barrett reported the various concerns and histories of the cases that were eventually consolidated and assigned to the Shawnee County District Court, Division 6, wherein they presently reside.

The Governor and leaders of the legislative branch, along with other state officials and attorneys involved in the litigation of these suits met in conference in October. They accepted Judge Terry Bullock's offer to consider the school finance law during the 1992 session. The Governor, by executive order, appointed a 16-member task force on public school finance with Representative Rick Bowden as chairperson. The task force submitted its report to the Governor on November 21.

(Mr. Barrett will supply copies to the Committee of his status report on the school finance litigation.)

Ben Barrett. Mr. Barrett presented an overview of the proceeding of the Governor's Task Force. (See Attachment #2.)

Mr. Barrett reported that the Task Force proposed consideration of an entirely new kind of system for financing public school in Kansas. He says, basically, it is one that involves the state determining the total amount of school district operations and then providing the mix of revenue sources to fund an approved spending level.

There was a lengthy discussion and debate regarding many aspects of the school finance proposal, including pupil weighting, i.e. categories of gifted, handicap, etc. One committee member noted that they must be very cautious when making decisions in this complex area.

Given the importance of decisions to be made regarding school finance, several members expressed an interest in having the experts that appeared before the Task Force Committee to also address this committee. Some are of the opinion they can benefit from their expertise by hearing from them the full menu of options for consideration. This may be considered at a

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION, Room 519-S Statehouse, at 3:30 p.m. on January 15, 1992.

Chairman Bowden reported that the Task Force agreed to not hold public hearings at the time the Task Force met. Being under very rigid time parameters, Mr. Bowden felt the committee had an obligation to get a report to the Governor. She would then have an opportunity to review the report prior to the final determination of the state budget, which was early in December. Secondly, because this Task Force was a result of litigation pending before the courts and the state was one of the litigants in the case, the Task Force decided to have an executive session with the lawyers representing the state. It was important for members of the Task Force to have an opportunity to visit with legal staff representing the state in the litigation to find out what they perceived to be the judge's opinions and what they thought we could or could not do, given their understanding of the judge's opinions. The Kansas Attorney General was asked to staff the Task Force. The Task Force proposal is now in the process of being drafted into legislation with some modifications.

The next meeting is scheduled for January 16, Room 519-S.

Upon completion of its business, the meeting adjourned at 5:15.

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TASK FORCE REPORT

November 21, 1991

To: Governor Joan Finney and the Legislative Coordinating Council

From: Governor's Task Force on Public School Financing

REPORT OF THE GOVERNOR'S TASK FORCE ON PUBLIC SCHOOL FINANCING

In relation to four lawsuits that had been consolidated in Division 6 of the Shawnee County District Court, the presiding judge, Honorable Terry Bullock, on October 14, 1991, at a conference arranged by the judge principally for the benefit of Legislative Branch leaders and the Governor, issued an order containing a series of rules of law for applying provisions of the *Kansas Constitution* that would be used if the consolidated school finance cases went to trial. The judge sought to determine if the sentiment of the group assembled was that the trial proceed as scheduled (the trial had been scheduled for the week of October 28 through November 1) or whether time should be allotted for review and possible adjustment of the school finance system. The initial response of the state leaders was a preference for re-evaluating the system in view of rules of law articulated in Judge Bullock's October 14 order.

On October 15, 1991, Governor Joan Finney issued Executive Order 91-147 creating the 16-member Task Force on Public School Financing for the purpose of considering Judge Bullock's order and making recommendations on public school financing in Kansas. The Task Force was requested to file a preliminary report of its recommendations with the Governor and Legislative Coordinating Council by December 9, 1991.

This report constitutes fulfillment by the Task Force of the responsibilities assigned to it. The Task Force wishes to emphasize that it has taken very seriously the awesome challenge set before it. The Task Force met on November 1, 7, 8, and 13, during which time it reviewed Judge Bullock's order in depth, reviewed statistical data related to various features of the present school funding system, considered two Attorney General's opinions concerning legal considerations in connection with the concept of a statewide property tax, received expert testimony on alternative state approaches to addressing the school facilities financing issue, conferred with school finance consultants, and evaluated suggestions submitted by several school administrators and education interest groups.

This report contains the principles for a major revision of the way Kansas public schools are financed. These principles greatly enlarge the state level role in determining public school finances and have at their core a very vigorous effort under a new set of ground rules to ensure an equal educational opportunity for all of the children of the state. Two points need to be made perfectly clear:

- In order to implement the principles embodied in the Task Force plan, a great many second level policy issues remain that must be addressed and tested before the plan truly becomes viable. The Task Force has no illusions about the extreme difficulty of this undertaking, but believes that the legislative arena is the appropriate forum for this task.
- While this report represents a consensus action by the Task Force, this should not be construed to mean that all of the members personally endorse or will support any specific feature of the plan.

RECOMMENDATIONS

1. Full State Funding

The present school finance system should be replaced by a new system based on a full state funding concept. This means that for school district operations the Legislature will determine school district spending levels and provide for the mix of revenue sources to fund the approved spending.

- a. A component of the financing plan should be a uniform statewide property tax for school district operations. In accord with provisions of the *Kansas Constitution*, it will be necessary for the Legislature to reenact the statewide tax rate every one or two years.
- b. The balance of the funding would be derived from other state funding sources.

2. Determining School District Operating Expenditures

The Legislature should determine school district spending authority by using a weighted pupil method. To accomplish this, a "base" per pupil expenditure level should be established. The base per pupil amount must be founded upon a rational basis and be adequate to satisfy the constitutional requirement of suitable financing. This base amount per pupil should include appropriate recognition of school district nongeneral fund expenditures under the present law for equipment and repair of buildings and inservice education and amounts levied for technology education. The following pupil weightings should be incorporated for determining school district operating expenditures:

- a. **Special Education.** The weighting assigned for special education pupils should be based on prior year statewide costs and be computed on a full-time equivalent pupil basis.
- b. **Vocational Education.** The weighting assigned for vocational education pupils should be based on prior year statewide costs and be computed on a full-time equivalent pupil basis.
- c. **Bilingual Education.** The weighting assigned for bilingual education pupils should be based on prior year statewide costs and be computed in a full-time equivalent pupil basis.
- d. **Transportation.** The weighting assigned for transportation should be based on application of a cost/density formula to prior year regular transportation expenditures for pupils transported 2.5 miles or more.
- e. **Enrollment.** The weighting assigned for enrollment should be based on a linear scale driven from 1991-92 adjusted actual expenditures.
- f. **Other Categories.** Other pupil weighting categories should be added, as determined appropriate by the Legislature.

It should be noted pursuant to this recommendation that the separate tax levying authority for capital outlay, technology education, and transportation would be abolished. Of course, any bond and interest levies presently associated with the tax levying authority for these funds would not be affected. Such

debt would be retired as scheduled. School districts would continue to have separate tax levying authority to pay judgments and for adult basic education.

3. Categorical Aid Programs

A few discrete categorical state aid programs should be continued. These are: educational excellence grants, parent education, adult basic education, food service, driver training, and motorcycle safety. These programs provide incentives for experimentation and innovation deemed to be especially meritorious, are needed for compliance with certain federal program requirements, or relate to programs and services generally regarded as peripheral to the usual grades K-12 operations.

4. Funds For Unforeseen Needs

Some state funds should be reserved for distribution by the State Board of Education to school districts to respond to unforeseen situations that from time to time are bound to arise. In order to secure these funds, school districts would submit applications to the State Board who would provide funding in accord with criteria the Board would be required to prescribe.

5. School Facilities

Future school building remodeling, reconstruction, and construction, including equipping of such buildings, should be subject to state level approval and be fully state funded. This proposal is not intended in any way to affect existing capital facilities financing commitments, but only those proposed on or after the effective date of the new legislation. The Task Force recommends that the State Board of Education be assigned responsibility for administering this program. A small portion of the funding provided for this program should be dedicated to meeting critical short-term needs and the remaining amount should be used to address longer-term requirements. A formalized priority system should be established as the basis for discharging this responsibility.

A uniform statewide property tax should be imposed to provide revenue for financing school buildings.

The State Board of Education should be authorized through the Kansas Development Finance Authority to cause bonds to be issued for the purpose of administering this program.

6. Selected Transitional Issues

With respect to certain specific issues, the following recommendations are offered:

- a. **"Local Effort" Resources.** The revenues to which school districts are entitled under the existing law from the motor vehicle tax, mineral production tax, revenue bond "in lieu" payments, and rental/lease vehicles sales tax should be used for statewide funding of the school financing system. To the extent authorized by federal law, the Public Law 874 (impact aid) receipts of a school district should be credited against the recipient school district's state funding entitlement.
- b. **Operating Funds in the Transition Year.** Cash balances, property taxes, and other revenues received by school districts in the transitional period to full implementation of the new funding system should be credited against the school district's state funding allocation. This would ensure that school districts receive

revenue distributions to which they are entitled under existing laws but are not advantaged or disadvantaged relative to other districts in the operation of the new funding program.

- c. **Cash Balances in the School District Capital Outlay Fund.** Unencumbered balances in the school district capital outlay fund in the year of implementation of the new funding program should be "frozen" and, as long as any such revenue is available, be used only to defray costs of any capital improvement project approved for the district by the State Board of Education. (See No. 5 above.)

7. Monitoring the School Financing System

The Legislature should establish an ongoing mechanism for monitoring implementation and operation of the school financing system. Because of its magnitude, complexity, and ever-changing nature, an institutionalized oversight mechanism is needed to identify problematic areas in the operation of the law and to propose remedies before problems reach overwhelming proportions.

8. Considerations for the Future

In future years, as it becomes feasible to do so, changes in the school funding system should occur in the direction of increased linkages to educational outcomes of student performance. Also, interdistrict cost sharing and reorganization incentive options should be explored, such as, for example, those being used in the State of Iowa.

Additionally, the Task Force believes there is merit in exploring alternatives for site-based allocation of funds within the school financing system and encourages legislative consideration of this matter.

9. Concluding Observations.

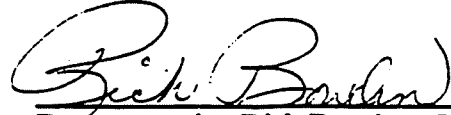
In conclusion, the Task Force wishes to note that concerns were expressed during the deliberations about the premium a plan such as this places on the fidelity of the state's property appraisal system and the impact that may be felt resulting from actions by local units of government in granting property tax abatements and exemptions. These are matters regarded as being beyond the scope of the charge to the Task Force, but are, nonetheless, very real concerns. The Task Force believes these are matters that should continue to be monitored closely by policy makers.

Task Force Members

Governor's Appointees

Susan Seltsam, Chief of Staff
Mary Holladay, Appointments Secretary
Gary Reser, Legislative Liaison
Ladislado Hernandez, Education Advisor
Mark Beshears, Secretary of Revenue
Gloria Timmer, Director, Division of Budget
Dan Hermes, Division of Budget
Timothy Emert, Chairperson
State Board of Education

Legislative Appointees



Representative Rick Bowden, Chairperson

Representative Bill Reardon
Representative Don Crumbaker
Representative Cindy Empson
Senator Joseph C. Harder
Senator Sheila Frahm
Senator Jerry Karr
Senator Nancy Parrish

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MEMORANDUM

Kansas Legislative Research Department

Room 545-N - Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

January 16, 1992

Re: Status Report on School Finance Litigation

School Finance Case Filings

In 1990, three school finance lawsuits were filed. They are: *Mock et al. v. State of Kansas* (90-CV-0918), *Hancock et al. v. Stephan et al.* (90-CV-1795), and *Newton USD 373 et al. v. State of Kansas* (90-CV-2406). These cases were consolidated in Division 3 of the Shawnee County District Court.

On June 25, 1991 another case was filed, this one by the Wichita school district (USD 259). Initially filed in the Sedgwick County District Court, the case subsequently was transferred to the Shawnee County District Court. In August, the Wichita case, *USD 259 v. State of Kansas* (91-CV-1009) was consolidated with the other school finance cases, all of which were assigned to Division 6 of the Shawnee County District Court. The Turner school district (USD 202) and the Olathe school district (USD 233) have joined Wichita as plaintiffs in this case. Terry Bullock is the Division 6 Judge.

The Wichita litigation, among other things, requested the Court to issue an injunction to prohibit the distribution of school aid under the present law. In an August 9 ruling, Judge Bullock denied the injunction. Judge Bullock's decision was appealed to the Kansas Supreme Court, which, in a ruling on December 18, 1991, deferred action on the matter pending the outcome of the school finance litigation in the Shawnee County District Court.

Initially, Judge Bullock set the trial date for the school finance consolidated cases for the week of October 28 through November 1. However, one of the events scheduled prior to commencement of the trial was a conference held on October 14 in the Kansas Supreme Court Chambers at which Judge Bullock announced a series of ten rules of law the District Court would apply in deciding the pending school finance issues. As requested by Judge Bullock, the conference was attended by the Governor and leaders of the Legislative Branch of state government, as well as by certain other state officials and by attorneys involved in the litigation. This conference provided the opportunity for the elected state officials to advise the Judge as to whether the trial should be commenced as scheduled or whether it should be deferred until after the 1992 Legislature had the opportunity to review the school finance law and to consider the issues posed in the litigation in view of the rules regarding interpretation of the law that the Judge stated he would apply.

The response of these state leaders was to embrace the option of using the opportunity to further consider the school finance issues before judicial review is commenced. As evidence of a commitment to this course of action, it was agreed the Governor would create, by executive order,

Education #2
Attachment
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a 16-member Task Force on Public School Financing. This Task Force was composed of eight gubernatorial appointees and eight legislators appointed by the legislative leadership, with the chairperson being named by the Governor (Representative Rick Bowden).

Although the Governor had set December 9 as the target date for the preliminary report, the Task Force was able to complete its work a bit earlier. The Task Force held meetings on November 1, 7, 8, and 13 and submitted its report to the Governor and to the Legislative Coordinating Council on November 21.

If the Legislature and Governor do not alter the system of school finance, or if any of the plaintiffs are dissatisfied with changes that are made, presumably, the litigation will resume in Judge Bullock's court soon after the conclusion of the 1992 Session.

Summary of Main Issues in the School Finance Litigation

In his October 14 order, Judge Bullock states that the cases, in the aggregate, challenge the constitutionality of the entire scheme of financing of the public schools -- grades kindergarten through 12.

The following summary is provided in order to give some insight into the issues of greatest concern to the plaintiffs in the school finance cases.

Mock Case. The case focused on two main concerns: (1) the treatment under the School District Equalization Act (SDEA) of the fourth enrollment category districts, and (2) the 1990 enactment (L. 1990, Ch. 257) which, in effect, suspended the SDEA for 1990-91 in favor of what was essentially a per pupil distribution.

Hancock Case. The case focused on two main concerns: (1) the 1990 enactment (discussed above), and (2) the fact that Kansas law does not equalize capital expenditures.

Newton Case. The case initially focused on three main concerns (1) the treatment under the SDEA of the fourth enrollment category districts (discussed above in *Mock*), (2) the disproportionate burden on property wealth caused by including taxable income in the SDEA formula, and (3) the 1990 enactment (discussed above). In 1991, after the conclusion of the 1991 Session, the case was expanded to assert that the entire system of financing the various school districts is too dependent upon local wealth and, thus, is unconstitutional.

Wichita Case. The case contained two main thrusts: (1) the cap of \$700,000 placed on the 1991-92 hold harmless provision (the principal concern) and (2) the SDEA as a whole. (Initially there was no detailed explanation of the objection to the SDEA as a whole.)

1991 Legislation

With respect to the issues raised, the 1991 SDEA amendments addressed three of the four main concerns raised in the three cases filed in 1990 (excludes Newton's 1991 expansion). The legislation:

1. provided for the merger of the fourth and fifth enrollment categories over a three-year period;
2. reinstated the power equalization formula for the distribution of most of the general state aid appropriated for the 1991-92 school year; and
3. reduced the amount of taxable income included in "district wealth" for purposes of determining a school district's local effort.

There was no equalization of capital expenditures.

It seems apparent from press accounts that Wichita felt compelled to join in the litigation due to the combined impact in that district of the amount of SDEA funding provided for the 1991-92 school year and the application of the \$700,000 cap on hold harmless aid for that year.

Regardless of the motives that prompted the filing of the various cases in the first place, it now clearly appears that if the litigation proceeds as anticipated at the conclusion of the 1992 Session, the Court will be reviewing all features of the school funding system.