

Approved: March 3, 1993
Date

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Rick Bowden at 3:30 p.m. on February 25, 1992 in room Room 519-S of the Capitol.

All members were present except:

Committee staff present:

Ben Barrett, Legislative Research
Avis Swartzman, Revisor of Statutes Office
Dale Dennis, Board of Education
Shirley Wilds, Committee Secretary

Conferees appearing before the committee:

The meeting was called to order by Chairman Rick Bowden.

Chairman Bowden passed out three items to committee members at outset of meeting: 1) In view of actions contemplated in committee this date, Chairman Bowden passed out to all members a reminder of proposed education committee rules, indicating it is helpful to them as well as those interested parties observing committee proceedings; 2) A copy of a letter from Mr. Dan Biles, attorney representing the State in school finance litigation; and 3) Division of Budget Sheet outlining funding system. (See Attachments #1, #2, and #3.)

Ben Barrett. Mr. Barrett reviewed with the committee Judge Bullock's opinion regarding school finance cases and provided a memo addressing school finance alternatives. (See Attachment #4.)

Chairman Bowden reiterated with the committee an excerpt of Judge Bullock's opinion: "The duty is not to districts, not to schools, not to voters, not to personal constituents (not to taxpayers) but to each school child in Kansas equally."

Representative Hensley made a motion to favorably pass HB 2892 and was seconded by Representative Wiard.

Representative Blumenthal made a substitute motion to amend HB 2892 to add a Third Tier (as per attached); seconded by Representative White. Motion carried.

Representative Larkin made a motion to amend the capital outlay provisions on HB 2892 and lift all restrictions this current budget year and lift 3 1/2 mill requirement for capital outlay for future years.; Representative Amos seconded the motion. Motion carried.

Representative Larkin made a motion to allow up to an aggregate maximum of 1% of budget to transfer into a cash reserve fund. Representative Reardon seconded. Motion carried.

Representative Reardon moved to amend into HB 2892 those provisions of HB 2998 beginning on Page 2, beginning with Line 6 and to include through Line 29. In addition, that all districts be required to have a QPA plan in place by the 1994-95 school year and that all schools have a QPA plan by the 1996-97 school year. Motion seconded by Representative Hensley.

Representative Pottorff made a substitute motion to include in Representative Reardon's motion, New Section of HB 2998 beginning on Page 2, line 30 going through line 10 of Page 4; seconded by Representative Ramirez.

After discussion, the motion by Representative Pottorff was withdrawn with concurrence of her second. A new substitute motion was made by Representative Pottorff to include Representative Reardon's original motion and also from Page 2 of HB 2998, lines 30-33 to the period following "education." Representative Ramirez seconded the motion. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION, Room 519-S Statehouse, at 3:30 p.m. on February 25, 1992.

Representative Reardon made a motion to amend the title of HB 2892 to include a reference to school reform, so that the previous amendment would not constitute a violation of the title of the bill. Representative Hensley seconded the motion. Motion carried.

Representative Hackler made a conceptual motion that special education be funded at 100% of cost. Representative Blumenthal seconded the motion. Representative Blumenthal withdrew his second. Motion withdrawn.

Representative Reardon made a substitute motion to amend HB 2892 to take effect upon publication in the Kansas Register. Representative Blumenthal seconded. Motion carried.

Representative Reardon moved to pass HB 2892 favorably, as amended. Representative Hensley seconded. Motion carried. Representatives Crumbaker, Lane and Jennison are recorded as Nay.

Chairman Bowden announced the committee would have HB 2835 for consideration on Thursday.

The next scheduled meeting is February 26, 3:30 p.m., Room 519-S, Statehouse.

Upon completion of its business meeting adjourned at 6:25.



GUEST LIST

COMMITTEE: House Education

Date: 2/25/92

Name (Please Print)	COMPANY ORGANIZATION	ADDRESS
---------------------	----------------------	---------

Grace May	Kansas Associated Garden Clubs + ^{Kays} Hort	3601 Stuart Road Topeka, KS 66604
TED YANNOCKER	USD 243 Lebo-Waverly	Box 457 Waverly, KS 66871
Ken Bahr	4th & Franklin USD	Topeka
Ron McCreary	Franklin (Franklin)	Topeka
Jim KEELE	BLE	PAOLA
Steve Mike	Surfouse Electric Power	Box 980 Topeka, KS 66608
Laura Kincaid	USD 498 Valley Heights	Blue Rapids, KS
Jack Penick	BLE	Blue Rapids, KS
Ana Brommit	Student USD 498 Valley Heights	Blue Rapids, KS
Jamie L. Brown	Student USD 498 Valley Heights	Blue Rapids, KS (6th)
George N Brown	USD 321	St. Marys - Passville
Jacquie Oates	SOE	Topeka
Laura McClure	Wiley	St. Peter
Tom Burgess	KSROA	Topeka
Jim Yonally	USD 512	Shawnee Mission
Helen Stephens	USD 229	✓

RICK BOWDEN
 REPRESENTATIVE, NINETY-THIRD DISTRICT
 433 WALNUT
 GODDARD, KANSAS 67052



TOPEKA

HOUSE OF
 REPRESENTATIVES

PROPOSED COMMITTEE RULES
 EDUCATION COMMITTEE

COMMITTEE ASSIGNMENTS
 RANKING MINORITY MEMBER: EDUCATION
 MEMBER: GOVERNMENTAL ORGANIZATION
 LOCAL GOVERNMENT
 RULES AND JOURNAL

The purpose of these rules is to facilitate the process with the understanding of the committee members and the public in reviewing the flow of legislation through this committee. Unless stated to the contrary herein, the rules of the House or Robert's Rules of Order will apply.

1. Items listed on the agenda must be brought before the committee in the order as they appear on the Chairman's agenda. However, if the agenda states that any items previously heard may be brought before the committee, the chair may bring to a vote, bills previously heard.
2. Original motions and substitute motions shall be in order when a bill is pending for consideration. A substitute motion may not be made which is contrary to the original motion. The Chair will rule on the question of contrariness of motions. All motions require a second.
3. An amendment to a bill must be "germane" to the area of law that is being proposed or changed. Questions of germaness will be ruled on by the Chair. Simple majority votes will be required for passage of motions.
4. The question of adjournment shall be reserved to the chair and no motion to adjourn shall be entertained unless recognized as in order by the Chair.
5. A motion to "lay on the table" shall be in order at any time a question or series of questions (including an original motion and a substitute motion) are pending. The motion is non-debatable and requires a majority vote to pass. Motions to lay on the table may be either for an indefinite period or until a time certain.
6. A motion to "take from the table" shall be in order when such item is on the agenda or is taken up by the Chair. The motion requires a simple majority and is debatable.
7. When time is separately reserved in the agenda for proponents and opponents of an issue and the time expires for either side, the testimony shall cease. The Chair may set either individual time limits on speakers or for each side in presenting testimony.
8. All conferees are asked to provide written testimony and shall provide 30 copies to the committee secretary at the time of presenting testimony.

*Education
 Attachment #1
 7/25/92*

#2
GATES & CLYDE, CHARTERED

A PROFESSIONAL CORPORATION

Attorneys at Law

10990 QUIVIRA

SUITE 200

OVERLAND PARK, KANSAS 66210

913-661-0222

TELECOPIER 913-491-6398

LAWRENCE C. GATES
DENNIS M. CLYDE
RONALD P. WOOD
DAN BILES
ELDON J. SHIELDS
THOMAS KELLY RYAN
JEAN LAMFERS

OF COUNSEL
Gordon N. Myerson P.C.
1310 Carondelet Drive
Suite 400
Kansas City, MO 64114

February 24, 1992

Representative Rick Bowden
Second Floor, State Capitol
Topeka, Kansas 66612

RE: School Finance Litigation

Dear Representative Bowden:

You ask about the possible timeline for resumption of the school finance litigation, should that be necessary. This letter is in response.

At the outset, it is obvious such a task is subject to speculation since the exact circumstances under which the Court and counsel would be operating are unknown. No doubt, there are parties who will argue for immediate trial settings and oppose further delays in this major litigation which has been pending since early 1990. Similarly, there will be calls for delay to accommodate any number of reasonable circumstances. The ultimate arbitrator will be the Court, of course. Therefore, and for the reasons more fully outlined below, the opinions expressed in this letter must be subject to the assumptions upon which they are based.

These disclaimers having been stated, the District Court proceedings most likely would be concluded no later than late June to mid-July 1992, with a final decision from the Kansas Supreme Court in early Fall of 1992, probably October. As more fully outlined below, these estimates assume no major or fundamental changes are made in the laws which provide financing for Kansas school districts. Significant changes probably will require additional preparation time by the Court and counsel in order to properly present the facts at trial.

Education
Attachment #2
2/25/92

Representative Rick Bowden
February 24, 1992
Page 2

Background

The consolidated school finance cases are really four lawsuits procedurally placed under one district court's jurisdiction. The first case was brought by a single school district and filed in the Kansas Supreme Court as an original action in January, 1990. The Supreme Court refused to consider the legal issues as an original action, noting a large number of conflicting facts which were best suited to be determined by a trial court. This case was remanded to the District Court of Shawnee County. The second lawsuit by a number of school districts was filed in the summer of 1990 and quickly consolidated with the first. In the Fall of 1990, a third lawsuit by a group of category four schools was added. A fourth lawsuit was filed in June, 1991. After some procedural wrangling it, too, ended up consolidated with the others. Presently, a total of 43 school districts are party plaintiffs to the case.

Although a variety of legal claims and issues have been raised, dropped or otherwise disposed of during this litigation, the central issue is the constitutionality of the manner in which this state is collecting, distributing and expending financial resources among unified school districts. Quite literally, every aspect of the present school finance formula is under challenge in these consolidated cases.

Beginning in early summer 1991, the district court and counsel began organizing the case and preparing for trial. The Court at that time noted the seriousness of the issues pending before it, and accelerated consideration of the case accordingly.

As you know, on October 14, 1991, the Shawnee County District Court with the consent and cooperation of legislative leaders, the governor, the parties and counsel conducted a day-long conference during which the District Court issued its opinion as to the controlling constitutional principles to which it would apply the facts, when those facts were presented at trial. The result of the October 14th conference was the Court granting a joint request by the legislative leadership and governor to delay the impending trial until additional consideration could be given to the school finance formula by the full Legislature during its regular 1992 session. With that agreement, counsel were instructed to cease trial preparations and stand down pending later developments. This delay came just two weeks before the scheduled beginning of trial.

Attach[#] 2-2

Status of Discovery

At the time the Court postponed trial, the parties were in the final stages of discovery. The only remaining discovery was to finish the deposition of Plaintiff's experts, take the depositions of defense experts and clean up some document production which was lagging. It should be emphasized, however, trial preparation was based upon the existing law in place for the 1991-1992 school year.

Resumption of the Litigation

Certain assumptions must be made in trying to determine what trial preparation will be necessary if the litigation were to resume. How these assumptions impact on the time frame are explained below.

Assumption Number 1: Assume first the Legislature ultimately determines to make no revisions to the present school finance formula. In this event, the litigation could be resumed very quickly once it became obvious no changes to the law were to be made. In that event, the time outlined on the first page of this letter might be advanced.

Assumption Number 2: The next assumption is that the Legislature makes some modifications to the school finance formula, but does not make a fundamental change. In that event, I believe the matter would still go to trial reasonably quickly with the modifications made by the Legislature taken into consideration. One example of such a change would be to equalize capital expenditures, but otherwise leave the formula intact.

Assumption Number 3: The third assumption is the Legislature undertakes a thorough and fundamental change in the method of distributing resources to the unified school districts in Kansas. In this event, speculation as to what preparation it would take to analyze those fundamental changes, study the projected impact on school districts and present the new law in a proper evidentiary fashion in the Courtroom is difficult, if not impossible. In many respects, what we would have is not a resumption of the pending litigation, but a whole new case. However, it is assumed the Court will provide the parties, counsel and witnesses with a reasonable time to

Attach # 2-3

Representative Rick Bowden
February 24, 1992
Page 4

absorb significant changes and prepare for trial. Most likely, a longer period of time than stated above would be needed.

No doubt, however, those who might feel aggrieved by a more sweeping change in the law would press for early consideration by the Court because of the school budgeting process, which, of course, is finalized in mid-August. How reasonable those demands would be will depend upon the nature of the changes and the complaints regarding the changes.

The District Court has scheduled a status conference for Monday, April 6, 1992, at which all counsel are to be present. It is believed the purpose of this conference is for the Court to consider any developments and to put forth a schedule in the event litigation must be resumed. Obviously, any time estimates contained in this letter should be re-examined following that conference.

One other circumstance comes to mind which might be worth mentioning. This is the possibility some new school districts would seek to intervene in the litigation. When this occurs, the intervening party invariably and as a matter of law must deal with the issue of whether the intervention might cause a delay of the case. Obviously, any new intervener would not be allowed to cause a delay in order to "get up to speed" in the litigation. Therefore, the opinions expressed with the first two assumptions should not change. Intervention probably would have no impact on the third assumption since everyone else will be adapting to the new law, as well.

I hope this discussion is helpful to you. I trust, however, you appreciate the difficulty of your inquiry since so much depends upon specific circumstances.

Very truly yours,



DAN BILES
for
GATES & CLYDE, CHARTERED

DB/lat

Attach[#] 2-4

MEMORANDUM

Kansas Legislative Research Department

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

October 16, 1991

Judge Bullock's Opinion Re School Finance Cases

The Senate Majority Leader and the Speaker's Office requested the Legislative Research Department to prepare a brief summary of Judge Terry Bullock's 31-page opinion of October 14, 1991 relating to several lawsuits on school finance. Our instructions were to highlight key points in the opinion of interest to legislators.

The Judge did not issue an opinion on the constitutionality of the School District Equalization Act. There is a strong inference, however, that some substantive changes in the Act are needed for it to pass constitutional muster. The opinion does not so state, but the purpose of the meeting conducted by the Judge on October 14 was to set the stage for giving the Legislature and the Governor an opportunity to take remedial action in the 1992 Session. In brief, the Judge said:

1. The Legislature has the absolute constitutional duty to establish, maintain, and finance free public schools, which must be financed from public funds and not from tuition (but fees or supplemental charges authorized by law may be imposed).
2. That duty is owed essentially and primarily to the school children of Kansas, furnishing each child with an educational opportunity that is equal to that of every other child. This duty is not owed to school districts, schools, cities or counties, voters, or personal constituents, but rather to each child equally.
3. Great discretion is granted to the Legislature to devise, change, and reform education. Educational needs and costs will vary from child to child and place to place. To furnish each child with an equal educational opportunity will require different expenditures at different times and places. The Judge used transportation costs and teaching children to speak English if they cannot do so as examples of disproportionate expenditures in order to provide the same or equal educational opportunity. However, if challenged the Legislature has a duty to articulate a rational educational explanation of a disproportionate distribution of financial resources.
4. One-hundred percent "state financing" is required for public schools, but money raised by school district tax levies is state money, although it has not been thought of that way, because such districts are only political subdivisions of the state exercising the state's taxing authority to partly fulfill the Legislature's obligation to finance the educational interests of the state.

*Education
Attachment #3
2/25/92*

5. All costs, including capital improvement expenditures, are within the constitutional mandate placed on the Legislature to finance the costs of educating students.
6. The Legislature's duty is not only to divide resources in a way to provide equal educational opportunities, but is also to furnish enough total dollars so that such opportunities are suitable. If total legislative funding should fall to a level deemed by the Court to be inadequate, a violation of the "suitable financing" provision of the *Constitution* would occur. In the present lawsuits, however, all parties have agreed that if present funding levels are equitably divided to provide equal educational opportunities to every child, no question of minimal adequacy or suitability exists at this time. But the Judge noted that such a day has come in other states, *e.g.*, Kentucky.
7. The Legislature cannot be sued for restitution arising from past disproportionate funding. If constitutional violations are found when the facts are heard in the present cases, the Judge has determined to make his decision operate prospectively only.

Judge Bullock's order said that the above rules, as summarized and paraphrased by the Research Department, are the governing rules of law applicable in his court to the current lawsuits, which have been consolidated, and will be applied to the facts found controlling at trial.

Not included in this summary is a lot of interesting and pertinent background information contained in the Judge's opinion. But a complete copy can be obtained from the Legislative Research Department.

**QUESTIONS AND ANSWERS IN JUDGE BULLOCK'S
SCHOOL FINANCE DECISION**

Question:

"1) Upon what entity of government is the sole and absolute duty to establish, maintain, and finance public schools imposed by the plain language of our constitution?" (p. 20)

Answer:

"The legislature." (p. 20)

Question:

"2) To whom is this absolute duty to establish, maintain, and finance public schools owed?" (p. 20)

Answer:

"The school children of Kansas." (p. 21)

Question:

"3) If the duty to establish, maintain, and finance public schools is constitutionally owed by the legislature to the school children of Kansas, in what proportion is that duty owed to each individual child?" (p. 21)

Answer:

"The duty owed by the Legislature to each child to furnish him or her with an educational opportunity is equal to that [duty] owed every other child." (p. 21)

Question:

"4) What can the legislature charge each child required to attend our public schools?" (p. 21)

Answer:

"Except for 'such fees or supplemental charges as may be authorized by law', the answer is nothing." (p. 22)

Question:

"5) If, then, the legislature must establish, maintain, and finance free public schools for the benefit of all Kansas school children, how must it divide its resources among districts, schools, and students?" (p. 22)

Answer:

This legislative duty is not to districts, not to schools...not to voters...not to personal constituents [not to taxpayers] -- but to each schoolchild of Kansas, equally. (Emphasis added in original.) (p. 22)

Question:

"6) Must, then, exactly equal (per pupil) dollar amounts be furnished to each school?" (p. 22)

Answer:

Obviously, educational needs, and concomitant costs, will vary from child to child and from place to place. The mandate is to furnish each child an educational opportunity equal to that made available to every other child. To do so will unquestionably require different expenditures at different times and places." (p. 22)

* * * * *

"The constitutional mandate is to provide to each child an equal educational opportunity, not necessarily exactly equal dollars.

"Because the legislative duty to each child is the same, however...a disproportionate distribution of financial resources alone gives rise to a duty on the part of the legislature, if challenged, to articulate a rational educational explanation for the differential. Any rational basis for the unequal expenditures necessitated by circumstances encountered in furnishing equal educational opportunities to each child, however, would conclude the constitutional judicial inquiry." (Emphasis in original) (p. 23)

Question:

"7) Does this mean 100% 'state financing' is required for public schools?" (p. 24)

Answer:

"Yes...[M]oney raised by school districts through 'local' taxation is still state money. It just hasn't been thought of that way." (p. 24)

Question:

"8) What financial costs of educating students are included in the constitutional mandate placed by the Educational Article upon the legislature?" (p. 24)

Answer:

All costs, including capital expenditures are included. (Emphasis in original.) (pp. 24-25)

Question:

"9) Is the legislature's only duty to divide its educational resources in such a way as to provide equal opportunities for every child?" (p. 25)

Answer.

"No. In addition to equality of educational opportunity, there is another constitutional requirement and that relates to the duty of the legislature to furnish enough total dollars so that the educational opportunities afforded every child are also suitable.

"In other words, should total legislative funding fall to a level which the Court, in enforcing the Constitution, finds to be inadequate for a 'suitable' (or 'basic' as some state's decisions prefer) or minimally adequate education, a violation of the 'suitable' provision would occur." (Emphasis in original) (p. 25)

Question:

"10) Can the legislature be sued for 'restitution' arising from past disproportionate funding?" (p. 27)

Answer:

"The answer is no. The remedy for a violation...is to strike existing laws which do not comply with constitutional provisions.

"Furthermore, as an added precaution, in light of the length of time the present system has existed and the reliance placed upon it until now, should violations be found when the facts are heard, the Court has determined to make its decision in this case operate prospectively only." (p. 27)

MEMORANDUM

Kansas Legislative Research Department

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

December 19, 1991

To: Senator Fred Kerr
From: Legislative Research Department and State Department of Education
Re: School Finance Alternatives

In order to facilitate thinking concerning ways the 1992 Legislature might address the school finance issue, you asked us to outline four alternative approaches that might be considered. As you suggested, these approaches range from staying with the School District Equalization Act (SDEA) in its present form to adopting the plan of the Governor's Task Force on Public School Financing.

You have identified a number of variables that have been the subject of discussion, both with regard to maintaining the SDEA in some modified form and implementing the Governor's Task Force proposals. These include concepts such as imposing uniform statewide property tax levies for school district operations and for building programs, state level administration of school district capital improvement programs, equalizing capital outlay and building expenditures, modifying or eliminating the income tax rebate, using pupil weighting in place of enrollment categories (weightings for such categories as special education, vocational education, bilingual education, transportation, enrollment, and at risk pupils), and equalizing various categorical aid programs (principally, special education, transportation, and bilingual education).

These issues are among those addressed in the following outline of four principal school finance approaches.

I. Retain SDEA in its Present Form

One rationale for this course of action is that the SDEA has served its purpose well and that it remains a fundamentally sound approach to school finance. Some would contend that current litigation is prompted more by the level of state funding for the aid program than by fundamental philosophical issues. This approach suggests that perhaps it is preferable to await guidance from the Kansas Supreme Court regarding any constitutional flaws that might exist in the state's school finance system rather than to try to guess what changes, if any, might be required in order to meet constitutional standards in the eyes of the Shawnee County District Court. (Remember, the judge of the Shawnee County District Court has not yet ruled on the constitutionality of the state's school funding system.)

Attach # 3-6

Under this scenario, it is conceivable that the 1993 Legislature would be able to address the school finance issue better informed as to the constitutional requirements for the funding of K-12 education.

By way of review, the key elements for the present law include:

1. The per pupil budget controls for 1992-93 are 101 percent to 103 percent.
2. District wealth is defined as the assessed valuation of the district plus 24 percent of taxable income of district residents.
3. The income tax rebate is at 24 percent and is distributed outside of the formula.
4. Hold harmless aid is set at 50 percent of 1990-91 per pupil state aid amounts.
5. The enrollment categories are maintained -- merger of the fourth category with the fifth category is in the second year of the three year merger schedule.
6. There is a state aids penalty for districts having general fund tax rates of less than 3/5 of the statewide median general fund tax rate.
7. There is variation in school district general fund tax rates, based upon the power equalization concept as embodied in SDEA.

Maintaining the SDEA in its present form implies that the existing state categorical aid programs would be continued as they presently exist, that a pupil weighting system would not be used, and that capital outlay and building programs would remain a matter of local determination and funding.

II. Keep the SDEA, But Modify it by Addressing Certain Specific Resource Equalization Issues

The rationale for this approach would be that the SDEA philosophy represents a sound approach to the school finance issue but that certain changes could be considered to remove impediments to greater realization of the equalization concept. By making such changes, one result would be to make more effective use of each state dollar allocated for financing education. In this connection the following issues, or some combination thereof, might be considered. The impact that this approach might have on pending litigation cannot be ascertained.

1. The hold harmless provision could be eliminated or funding could be increased sufficiently so that the hold harmless provision has little or no impact on general state aid distributions.
2. The income tax rebate could be reduced or eliminated and general state aid could be increased correspondingly. (Presumably, the definition of district wealth would be similarly modified.)
3. A recapture provision could be added so that "excess" local effort (the local effort requirement of a district in order for the district to spend at a given level) is

remitted to the state to be used in helping to fund the school aid program. (Generally, a recapture provision would apply only to a few school districts which have very large amounts of district wealth relative to other school districts.)

In the alternative, the 3/5 penalty provision could be increased to a higher level. This could mean that a few more school districts would lose all or a portion of certain categorical aids. The emphasis would become more focused on property tax variations than on full application of the principle of resource equalization.

4. Certain of the state categorical aid programs could be "power equalized." That is, the SDEA equalization principle could be applied to them. The main candidates for such treatment are special education and transportation. (The state contribution to KPERS on behalf of school employers also could be considered in this regard.)
5. A minimum expenditure level could be established to ensure that no school district is permitted to have a per pupil expenditure level below some specified percentage of the median expenditure level for the enrollment category. (This would reduce somewhat the actual expenditure range of school districts of similar size. A cap on higher spending districts also would tend to reduce expenditure ranges.)
6. A state aid program could be created to assist school districts with both existing and future capital improvement bond and interest levies. The state funding program could be linked to the resource equalization concept by using the general state aid ratio applicable to the school district or it could be computed inversely to assessed valuation per pupil.
7. Equalization of mineral production tax and rental/lease vehicle sales tax receipts of school districts could be achieved by treating these resources as local effort under the SDEA.
8. The 2 mill tax levy for technology education could be repealed or equalized. (This program, enacted in 1991, authorizes a maximum 2 mill levy for technology education. This levy is outside of the equalization features of the SDEA.)

Under this alternative, a pupil weighting concept could be considered, presumably in place of the enrollment categories. If this were done, weighting probably would be substituted for power equalization of various categorical programs (No. 4 above).

III. Blended Approach – Some Features of the SDEA and Some Features of the Governor's Task Force Approach

The rationale for this approach is that it combines retention of an element of the local spending discretion contained in the SDEA, including an equalization feature, and some of the systemwide features of the Task Force plan. Under this approach, the systemwide component may be thought of as a foundation program upon which is built a discretionary component.

The elements discussed here are drawn partially from the basic funding approach used in Kentucky and from another possible modification.

Plan Overview

Under this approach, the main funding program consists of two tiers.

The first tier is based upon a state determined per pupil amount and is multiplied by the enrollment to determine Tier 1 spending. An important element of Tier 1 is a common taxing effort, such as a uniform tax rate applicable in each school district, to help fund the budget. State aid would provide the difference between the amount produced from the local taxing effort and the budget. (If the uniform tax rate produced more than the budget, "recapture" could be considered.)

Full state funding at this level, including a statewide property tax component, also would be a possibility for Tier 1 funding.

The second tier is local option spending. School districts would be authorized to spend above the base level per pupil amount by some specified percentage. To equalize the ability of the district to make this choice, districts would be guaranteed financing equal to the assessed valuation per pupil of the median school district or of some higher level, as the Legislature determines. (To the extent that the state guaranteed equalization level is below the highest assessed valuation per pupil district, some disequalization will exist.)

1. School district Tier 1 budgets would be determined by a pupil weighting method.

In the alternative, school district Tier 1 budgets would combine both pupil weighting and a linear transition schedule based on enrollment.

2. School district Tier 2 budgets would be determined by the local school board subject to some state imposed per pupil percentage limitation.

The Tier 2 enhancement could be funded on an equalization basis, by use of a state guaranteed assessed valuation per pupil -- at the state median or at some higher level.

In the alternative, the Tier 2 enhancement could be funded by the state within a range of a low of 25 percent to a high of 75 percent based inversely on an assessed valuation per pupil schedule. (These beginning and ending points for determining Tier 2 state aid would limit somewhat the degree of equalization produced.)

3. A uniform statewide mill rate could be applied to Tier 1 funding and variable property tax rates would apply to Tier 2 funding, depending on local district spending decisions and on the degree of equalization provided.

4. The income tax rebate would be eliminated. (Presumably, this revenue would be used to help finance the program.)
5. Enrollment categories would be replaced by a pupil weighting approach or by a combination of pupil weighting and a linear transition schedule.
6. The categorical state aid programs would be eliminated to the extent that pupil weightings are used in their place.
7. The hold harmless concept would be eliminated.
8. Consideration could be given to establishing a state aid program for school facilities. This could be based on a guaranteed assessed valuation per pupil approach.

In the alternative, a fully state funded and state controlled school facilities program could be established.

9. The technology education tax levy could be eliminated.

In the alternative, the technology education tax levy could be equalized in the same manner as Tier 2 funding is equalized.

IV. Adopt Governor's Task Force on Public School Financing Plan

A rationale for this approach is that it is a fully state funded and largely state controlled plan which appears potentially to meet the requirements implied in the order of the judge of the Shawnee County District Court. (Remember, the judge has not yet ruled on the constitutionality of the state's school funding system.) Property tax rate variations would be eliminated, except for bond and interest levies in existence at the time the legislation was enacted.

Plan Overview

The system is based on the full state funding concept. The Legislature would determine school district operations funding levels and provide the necessary revenues to fund the program. The plan assumes a uniform statewide property tax as a major funding component. School district tax levies for technology education and transportation would be incorporated into the budget base and, therefore, would be abolished.

1. Pupil weighting would replace the use of enrollment categories. Weightings would be provided for special education, vocational education, bilingual education, enrollment, and perhaps, other categories. Categorical state aid programs for special education, transportation, bilingual education, and inservice education would be abolished.

2. Categorical state aid programs for educational excellence grants, parent education, adult basic education, food service, driver training, and motorcycle safety would be retained.
3. Some state funds would be reserved for distribution by the State Board of Education to school districts for unforeseen situations, based on school district applications.
4. Future school building, remodeling, reconstruction, and construction, including equipping of school buildings, would be subject to state approval and would be fully state funded. A uniform statewide property tax would fund the program.
5. School district motor vehicle tax, mineral production tax, revenue bond "in lieu" payments, and rental/lease vehicles sales tax receipts would be used for funding the state financing system. (P.L. 874 receipts (Impact Aid) would be deducted, to the extent allowed by law.)
6. An ongoing school finance monitoring mechanism would be established.

This plan implies elimination of the income tax rebate and the hold harmless provision. The recapture or minimum tax rate issues do not arise because the property tax levies under this plan are state levies rather than local school district levies. The power equalization concept is replaced by a totally state funded method of finance.

Proposed Amendment to House Bill No. 2892

On page 15, following line 5, by inserting two new sections as follows:

"New Sec. 30. (a) In each school year, the board of any district may adopt a local enhancement budget, subject to the following conditions:

(1) The board has adopted a local option budget and has budgeted therein the total amount authorized for the school year.

(2) The board has determined that the amounts budgeted for operating expenses in the general fund and the supplemental general fund are insufficient for such purposes due to the existence of any one or more of the following:

(A) Variances in the cost of living in the district;

(B) implementation and maintenance of innovative programs and school reform efforts;

(C) unique pupil needs including, but not limited to, an influx of economically disadvantaged pupils, a disproportionate number of severely handicapped pupils;

(D) implementation and maintenance of technology education programs;

(E) unique safety concerns including, but not limited to, incidents of gang violence, transportation safety needs;

(F) payment of enhanced compensation to district personnel due to experience;

(G) implementation and maintenance of a quality performance accreditation system;

(H) unusual occurrences affecting enrollment and requiring the construction of new or additional school facilities.

(3) The local enhancement budget shall be limited in amount to an amount equal to 15% of the amount of the state financial aid of the district for the school year.

(4) The state board has authorized the adoption of the local enhancement budget.

(b) In order to receive authorization to adopt a local

*Education
Attachment #4
3/25/92*

enhancement budget, a board shall submit to the state board an application for such authorization. The application must be submitted on or before July 1 of the current school year and must include documentation of the reason or reasons for which the board has determined that adoption of a local enhancement budget is necessary.

(c) The state board shall review applications of districts for authorization to adopt a local enhancement budget and shall:

(1) Evaluate the reason or reasons for which a board has determined that adoption of a local enhancement budget is necessary and make a finding as to the validity of such reason or reasons; and

(2) approve or deny the application and notify each board of the disposition of the application.

(d) Within 10 days after receipt of notification by the state board that an application has been approved, a board shall:

(1) Reconsider its determination that adoption of a local enhancement budget is necessary;

(2) make a final decision as to the adoption of a local enhancement budget; and

(3) certify its final decision to the state board.

(e) Within 10 days after receipt of certifications of boards under subsection (d), the state board shall:

(1) Determine the total amount of all local enhancement budgets, in the aggregate, authorized to be adopted by boards;

(2) determine the total amount of the assessed valuations of all districts, in the aggregate, that have been authorized to adopt local enhancement budgets;

(3) compute a tax levy mill rate that will produce an amount, when applied to the total amount of assessed valuations of districts determined under (2), that is equal to the amount determined under (1); and

(4) certify the tax levy mill rate computed under (3) to each board that has been authorized to adopt a local enhancement budget.

Attach 4-2

New Sec. 31. (a) In each school year, the board of every district that has adopted a local enhancement budget shall levy an ad valorem tax on the taxable tangible property of the district for the purpose of financing local enhancement budgets and for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district. The tax shall be levied at the rate certified to the board by the state board under subsection (e)(4) of section 30, and amendments thereto.

(b) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be remitted to the state board.

(c) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments to such sections.

(d) All amounts remitted to the state board under subsection (b) shall be deposited in the state treasury to the credit of the school district local enhancement fund, which fund is hereby established, and shall be allocated within the fund to the account of the districts levying a tax under this section. The amount of the allocation to the account of a district shall be an amount which bears the same proportion to the total amount of local enhancement budgets adopted by boards, as determined by the state board under subsection (e)(1) of section 30, and amendments thereto, as the amount of the local enhancement budget adopted by the district bears to such total amount of local enhancement budgets adopted by all boards. All moneys allocated to the account of a district under this subsection shall be distributed to the district for the financing of the district's local enhancement budget.

(e) The director of accounts and reports shall draw warrants on the state treasurer payable to the district treasurer of each of the districts entitled to payment from the school district local enhancement fund pursuant to vouchers approved by the state board. Upon receipt of such warrant, each district treasurer shall credit the amount thereof to the local enhancement fund of the district, which fund is hereby established in every district that adopts a local enhancement budget. Amounts in the local enhancement fund of a district shall be used exclusively for financing the local enhancement budget of the district. Any unexpended and unencumbered cash balance remaining in the local enhancement fund of a district at the conclusion of any school year in which a local enhancement budget is adopted shall be transferred to the general fund of the district.";

By renumbering sections 30 through 46 as sections 32 through 48, respectively

Attch 4-4