

Approved 5/1/92
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by SENATOR JOSEPH C. HARDER at
Chairperson

1:00 ~~xx~~/p.m. on Wednesday, March 25, 1992 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Mr. Ben Barrett, Legislative Research Department
Ms. Avis Swartzman, Revisor of Statutes
Mr. Dale Dennis, Assistant Commissioner of Education
Mrs. Millie Randell, Committee Secretary

Conferees appearing before the committee:

HB 2892 - School district finance act.

Opponents:

Mr. Paul T. Higday, student, Blue Valley High School
Dr. James C. Thompson, Superintendent, USD 229, Blue Valley, Johnson Co.
Ms. Amy Bosilevac, student, Blue Valley High School
Dr. Ron Wimmer, Superintendent, USD 233, Olathe
Representative Doug Lawrence, Burlington
Superintendent Bill Grimes, USD 209, Moscow Public Schools; speaking
on behalf of the Kansas Education Coalition
Ms. Christy C. Levings, Olathe National Education Association
Mr. Richard H. Connell, President, Blue Valley National Education Association
Mr. Franklin Dee Williams, Topeka
Mr. Christian Jacobs, student, Blue Valley North High School
Dr. Jim Yonally, USD 512, Shawnee Mission Public Schools
Mr. John McDonough, Lenexa
Superintendent Larry Clark, USD 244, Burlington (written testimony only)
Mr. Denny D. Burgess, Southwest Kansas Royalty Owners Association
(written testimony only)
Mr. Bernard E. Nordling, Executive Secretary, Southwest Kansas Royalty
Owners Association (written testimony only)

Chairman Joseph C. Harder called the meeting to order and announced that in the interest of time he is requesting conferees to contain their remarks to five minutes. He then called upon the first conferee, Mr. Paul T. Higday, a student at Blue Valley High School.

Mr. Higday affirmed that a primary motivation for people to move into this state is the quality of its education system. HB 2892, he asserted, may well destroy all the progress that has been made since "A Nation at Risk" alerted this nation to the "rising tide of mediocrity that threatens our very future as a nation and as a people". (Attachment 1)

Dr. James C. Thompson, Superintendent, Blue Valley, asserted that "if there is to be a new school finance plan, it should be built upon the goal of providing top quality education for every Kansas child". Should HB 2892 be enacted, however, Dr. Thompson called attention to several concerns in his testimony found in Attachment 2.

Blue Valley High School student Ms. Amy Bosilevac questioned whether or not the desire for knowledge is paramount in today's society. She cautioned the Committee not to "knock down the areas in Kansas which have made education a top priority". (Attachment 3)

Dr. Ron Wimmer, superintendent, USD 233, Olathe, stated that he is appearing on behalf of the Board of Education to address three concerns related to HB 2892. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

room 123-S, Statehouse, at 1:00 ~~am~~/p.m. on Wednesday, March 25, 1992

Burlington State Representative Doug Lawrence stressed that funding education with more money will not necessarily improve the quality of education. He said he also believes that one does not start the process of providing tax relief by increasing spending and increasing taxes. He called attention to a House plan using the current SDEA formula with modifications. (Attachment 5)

Moscow Public Schools Superintendent Bill Grimes, speaking on behalf of 32 schools which are members of the Kansas Education Coalition, addressed three elements of HB 2892 that the Coalition particularly opposes. (Attachment 6)

Although HB 2892 accomplishes some of needs of the Olathe District schools, Ms. Christy C. Levings, representing Olathe National Education Association, pointed out some major flaws which she requested that the Committee address. (Attachment 7)

Mr. Richard H. Connell, president of the Blue Valley-National Education Association, expressed concerns relating to those school districts which become losers under HB 2892 as passed by the House. Mr. Connell affirmed that it is unacceptable for any district not to be able to retain its current 1991-92 budget level. (Attachment 8)

Topeka resident Mr. Franklin Dee Williams referenced his concern to section 34 of the Organic Act and pointed out that the starting point for funding schools should begin with a study of what transpired following enactment of the Organic Act as it related to location and funding of schools. (Attachment 9)

Mr. Christian Jacobs, a senior at Blue Valley North High School, was concerned with the effects passage of HB 2892 would have on the Learning Center Program which he has attended throughout his entire academic career. (Attachment 10)

Representing the Board of Education of USD 512, Shawnee Mission, Dr. Jim Yonally cited examples of irrationalities in school funding that would occur as a result of passage of HB 2892. (Attachment 11)

When the Chair recognized Senator Leroy Hayden, Senator Hayden informed the Committee that due to a National Gas Pricing Act that will become effective in 1993, land valuations in western Kansas will decrease dramatically. He said that the price of natural gas will decrease, and the value of the reservoir, which is included in the tax base, also will decrease measurably. He noted that the mill levy would need to be retained at 55 mills to, hopefully, maintain the current budget.

Mr. John McDonough, Lenexa, opposing HB 2892 because, he said, it is too expensive, strongly urged passage of a voucher system for funding education and allowing students more freedom in selecting their own schools. (Attachment 12)

The Chairman informed members that written testimony had been submitted on behalf of Superintendent Larry Clark, Burlington, USD 244 (Attachment 13); Mr. Denny Burgess, Southwest Kansas Royalty Owners Association (Attachment 14); and Mr. Bernard E. Nordling, Executive Secretary, Southwest Kansas Royalty Owners Association (Attachment 15).

The Chair announced that the hearing on HB 2892 is concluded, and he adjourned the meeting.

SENATE EDUCATION COMMITTEE

TIME: 1:00 p.m.

PLACE: 123-S

DATE: Wednesday, March 25, 1992

GUEST LIST

NAME	ADDRESS	ORGANIZATION
John Marshall	Topeka	ITHS
Elizabeth Ann Williams	Topeka	SEIR
Ladislav M. Hernandez	Topeka	Gov's office
Kathy Brown	Lawrence	Kappa
Ann Burnett	Topeka	USD 501#
HAROLD PITT	TOPEKA	AARP-CETF
Bill Munch	M. W. K. K. K. K. K.	S + Bd Ed.
Harriet Lange	Topeka	KAB
Deanne Apter	Topeka	USD # 500
Donald R. Jones	Osage	Osage Chamber of Commerce
Tom R. Simpson	Lawrence	Chamber of Commerce
Joe Cramer	Healy	USD 468
Don Hunt	Xoxie	USD 412
Ken Bahr	Topeka	4th Enrollment USD#
Robert Strubbs	Winchester	USD 339
Wm. Yoder	Topeka	D. Kew
Cyrus Grant	Topeka	HMEA
Jeff Morris	O.P.	BV USD # 229
Stephen Wylie	O.P.	BV USD # 229
Chandra Rice	Seawood	Blue Valley, USD # 229
Jacque Oakes	Topeka	SOE
Vernon L. Batt	Manter	Mayor
SHARON DIMITI	Hanson, Mo.	Stanton Co. Clerk
Lee Rancy	JOHNSON, Kc	STANTON Co. Task Force

SENATE EDUCATION COMMITTEE

TIME: 1:00 p.m. PLACE: 1235 DATE: Wednesday, March 25, 1992

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Paul Whuman	Johnna-Ranson	
Jim Allay	Topock	McGill Assoc.
NELSON BRYANT	HUGOTON	USD #10
Bill Grimes	Moscow	USD #209
MIKE GASKILL	Moscow, KS	USD #209
Stanley McMill	Moscow, KS	USD 209
Cherian L. Laca	11514 Foster ^{OP}	BVPC Assoc
Mary A. Gomez	15918 W. 144 St	Private citizen
Chris M. Jambly	15918 W. 144 St	Private Citizen & Student
John McDonough	Lenexa	School Voucher News
Sherrelyn Smith	9154 Riggs Ln OP, KS	Blue Valley NEA (USD 229)
Helen Stephens	P.O. / Jopoka	Blue Valley #229
Jim Thompson	Blue Valley Schools	USD #229
Jan Van Hee	7621 W. 102 nd St. OP, KS 66212	Blue Valley #229
Jim Yonally	Averland Park	USD #512
Sue Gamba	Shawnee, KS	USD 512
Russell Branders	Sublette KS	USD 374
GARY MARSHALL	Sublette KS	USD 374
Mark Tallman	Topock	KASB
Paul E. Fleener	Manhattan	Kansas Farm Bureau
Keed W. DAVIS	Topock Topock	KDOT
J. J. J. J.	OP	Blue Valley
Amber Hoff	2840 Orville Ave	PAGE

SENATE EDUCATION COMMITTEE

TIME: 1:00 p.m. PLACE: 123-S DATE: Wednesday, March 25, 1992

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Kim Vickers	Topeka	Sen. Karr
Carol Speth	Lawrence	
Rachel Risalvato	Kansas City ks.	PAGE
Katherine Blagg	Kansas City K.S	PAGE
Gayle Osterburg	Lawrence	University July Kansas
Harriet Hosney	Emporia	Emporia USD 253
John D. Petters	Topeka	K. C. STAR
Michael Turner	Topeka	KTKA-TV
Karl Freundt	"	"
ROGERS STRICKLANDO	STRAWELL	INDIVIDUAL
Jerry Hayden	Senators	

Written Testimony of

Paul T. Higday

Student
Blue Valley High School
Stilwell, Kansas

In 1983, a report was published by the educators of America called *A Nation at Risk* which stated, "The educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a nation and a people." For nine hard years both the federal government and the state governments have worked hard to stop this mediocrity, often by increasing funding for schools. Now, when we have finally succeeded in creating schools that educate their students well, the plan that is being considered may destroy all the progress that has been made. If the state government of Kansas decides that those schools that are succeeding should have the money earned from local property taxes taken away, then the tide of mediocrity we have worked so hard to stem will begin to rise beyond our control.

The idea of equality is fundamental to American society, but even the founding fathers realized how important the diversity of American culture is. If every school district is given an equal amount of money, then eventually every school district will have to be equal. A prime example of this is the vulnerability of special education programs for impaired and gifted students. These programs are necessary to allow students to reach their full potential. Following this cut would be a cut in athletic programs, which are vital to the idea of school spirit and community unity.

It can easily be argued that some schools have neither special education programs nor large athletic budgets. There are even schools in Kansas that lack the funds to give a quality education to a student. These schools are definitely in need of help. Yet the idea of "stealing from the rich to give to the poor" is now out of date, since the "rich" and the "poor" are now part of the same country. Granted, the eastern school districts do have more money than the western school districts, but only because they are willing to pay the price. Johnson County currently has one of the highest mill levies in the state, therefore the school districts in that area receive more money. A primary motivation for people to move into this state is the quality of its education system. A family who wants to live near a good school actively searches for one before they make their choice of residence. Unfortunately, if a good school system isn't present, then the likelihood of a family moving into the area drops substantially. For years, the Blue Valley School

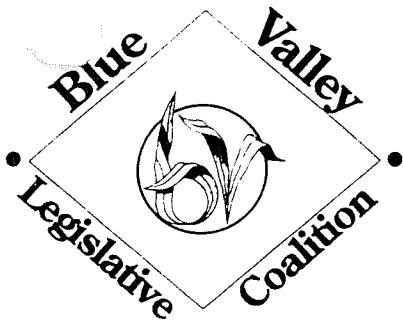
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District has advertised its credentials, and is consequently expanding at a rapid rate. Surely the influx of students into the schools is not pure coincidence!

The proposal we are considering is of prime importance to the entire state. I loudly applaud the increase in funding for our troubled schools that is gaining approval in both the house and the senate. The more money that is available to each school the better. But if the legislature decides that the "rich" districts should pay to the coffers of the "poor," then it is best to remember that some schools are losing money. In a day and age that holds education as the key to competitiveness, can we truly afford to lose some of the best schools and best students to the politics of equality? The idea of equality is based on everyone having something. If the United States fails in it's quest to be competitive in the world of today, then everyone receives less.

The tide of mediocrity in our schools is being halted. In many parts of this state, and the United States as well, we are learning what it takes to succeed in education. The best choice we can make now is to have those that have succeeded teach those who are still struggling. To remove the funds from those schools that have succeeded in providing a quality education is more than contrary to our goals both as a state and a nation, it is contrary to common sense! If we remove the strongest bricks in our educational foundation, then the entire structure can be expected to crumble. Can we, as a nation, truly afford the consequences of that?

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Blue Valley Legislative Coalition
CO Blue Valley USD #229
15020 Metcalf
Overland Park, Kansas 66223
(913) 681-4000
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*Blue Valley
Unified School District*

*Blue Valley
Board of Education*

*Blue Valley
Teachers' Association*

*Blue Valley
Parent-Teacher Associations*

*Blue Valley Schools
Principals & Administrators*

*High School
Student Councils*

*Blue Valley
Parents as Teachers*

*Blue Valley
Business Partners*

*Blue Valley Parents of
Special Education Students*

TO: SENATE EDUCATION COMMITTEE
FROM: JAMES C. THOMPSON
SUPERINTENDENT OF SCHOOLS
RE: HOUSE BILL 2892
DATE: MARCH 25, 1992

The past several months have been a time of great concern, frustration, and uncertainty for residents, employees, and students in the Blue Valley School District as these deliberations regarding school finance in our state have progressed. A community which has supported and expected top quality education from its local system has worried about whether it will be allowed to maintain that quality. And, a community which has provided most of the economic development and growth in Kansas for the past decade has questioned whether such development will be allowed to continue. Those residents, employees, and students have spoken out and are here today because of those concerns.

We believe that House Bill 2892 is not a good school finance bill for Kansas education. The bill is based upon misconceptions and misinterpretations of Judge Bullock's opinions. It would seek to assure equal educational opportunities by restricting all school districts to the same basic budget per pupil. It is a drastic departure from a school aid formula which has served this state well. And, it confuses the purposes of school improvement with property tax relief.

We believe that if there is to be a new school finance plan, it should be built upon the goal of providing top quality education for every Kansas child. During the discussions about this bill, we have heard much about providing "equal educational opportunities" to children. And, rightfully so. But, we have heard very little about quality, and House Bill 2892 makes no effort to tie funding to needs for quality. Shouldn't we be taking this grand opportunity which Judge Bullock has provided us to determine what a quality

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Kansas education means in terms of outcomes and then determine expenditures to provide quality education for each child? Isn't it worth taking the time to determine what a suitable and quality education costs?

We are concerned about the reduction of local control and the ill-effects which will follow if we are unable to continue our heritage of local citizens, parents, teachers, and elected Board Members setting educational priorities and making decisions for their schools and being accountable locally for those decisions. If this mistaken interpretation that all money is state money is used to justify the dictating of the annual per pupil expenditures and tax levies from the state capitol, we will have greatly reduced local control. And, local accountability will be lost. We have no idea of what negative consequences that could have for Kansas!

We would like to suggest that if HB 2892 is to be enacted, it should be amended to provide a basic provision for increasing the base budget for the extraordinary expenses of opening and operating additional schools. We know that the third tier includes that expense as one reason for invoking that option. However, we believe that this need deserves to be placed in the basic plan and is as defensible as making expenditure allowances for small enrollment districts. Blue Valley has four additional schools under construction which we need to open in the next two years. Is it fair that our children be penalized by having the base budget of their district diminished to cover these expenses just because they live in a fast-growing district?

Finally, we are very concerned about the provisions for increasing the budget through the second and third tier enhancements contained in HB 2892. Those provisions, particularly the mechanics of using the third tier are nearly impossible to use. They will restrict the ability of our school district to provide a comparable operating budget for our students in the future. Is it fair that our children be penalized because of these cumbersome procedures?

Please continue to work hard to find suitable solutions. Take time to think through various alternatives. We are anxious to assist you in finding solutions. Kansans are known for being interested, informed, rational people. They take the time to make deliberate and reasoned decisions. Nothing less in these considerations will serve the future needs of our children.

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Amy Bosilevac
Blue Valley H.S.

It is hard for me to speak for my school district and say that we deserve more money than is allotted under the proposal because of our willing taxpayers, unless I look at the prospective view of what will happen to education under the proposal.

We must ensure the quality of education to students. This has been camouflaged in newspapers under new tax proposals and Governor Finney's comments about them.

Everyone in this room believes that education is important. That's been frontrunner of all issues the last couple of months in Topeka. However, as the Senate has the power to alter the taxpayer's dues to the state, the Senate also has the power to alter the minds of children throughout the state. We need to think about the student. Defining a student under terms of fiscal syntax: the one who is sitting in class absorbing the tax dollars at work.

Because of the student, I believe that the only ethical choice that the Senate has to make is one that will not make a fiscal infringement on current school districts who try to give their students the best with their own resources.

I can comfortably applaud school districts in Johnson County for standing up for what they believe in for the students: THE QUALITY OF EDUCATION. Simply collecting all resources for education in Kansas and dumping them into the educational pot and dividing the amount equally per student will not ensure

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quality of education. That is the ticket to decline.

Blue Valley and Shawnee Mission districts are great institutions of learning, yet with this proposal millions of dollars will be cut. Those millions make the difference from average programs to excellent programs.

There are two groups of students who will most be affected. First, let's examine the academically advanced. There were two students from my school who recently placed First and Third overall in a Kansas City math competition. It wasn't because they came from Blue Valley. They would have done just as well no matter what school they had come from. The School Finance Proposal will not turn smart students into average students; it just won't be able to supplement those students' desire to learn at school, because programs will be cut and less technology will be implemented.

Secondly, the average student will be hurt. This plan will extremely hurt that student at BV and Shawnee Mission. Classes will have to be larger, so there will be less one on one help between the student and the teacher.

Without looking at the issues of local control or the taxpayer, please make your decision first on the quality of education for the student. Yes, I know there are schools in Kansas that desperately need aid. There must be some other channel for them to attain it, rather than knocking down existing quality, so that mediocrity can spread.

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It would be outstanding if the desire for knowledge was a paramount value in today's society, but since it is not, do not knock down the areas in Kansas which have made education a top priority. People are upset where I come from, not just because they feel financially responsible, but because they feel morally responsible to provide not an average or O.K. education, but an excellent one.

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To: Senate Education Committee
Re: Hearing on House Bill 2892
Date: March 25, 1992
Comments from: Dr. Ron Wimmer, Superintendent of Schools
Unified School District No. 233 (Olathe)

Chairman Harder and Members of the Education Committee:

Thank you for the opportunity to appear before you today. I am Ron Wimmer, Superintendent of Schools of Unified School District No. 233, Olathe, Kansas. I appear today on behalf of our Board of Education in regard to three concerns of House Bill 2892: 1) the per pupil allocation to establish the Base Operating Budget, 2) the procedure for authorization of Tier 1 (Local Option Budget) and Tier 2 (Local Enhanced Budget), and 3) perceived difficulties with implementation of the local options for the 1992-93 school year. While we have been supportive of HB 2892 and greatly appreciate the efforts of our House Representatives on HB 2892, we hope our suggestions today will lead to improvements on this important legislation.

HB 2892 would provide the Olathe schools a Base Operating Budget of \$56.3 million based on a weighted per pupil amount of \$3625. Our current operating budget of \$64.2 million is based on a per pupil expenditure of \$4382. HB 2892 results, therefore, in a base operating budget of \$8.3 million less than our current General Fund budget. The current budget obviously does not take into account necessary increases in the 92-93 budget due to increased enrollments, the opening of a new high school, or other justified budget increases.

Although full funding of special education would offset some of the difference for 92-93, it is obvious we would need to exercise both local option tiers simply to provide existing services and programs. Tier 1 would decrease the difference but not sufficiently to eliminate the need for Tier 2 funding. Should our Board or voters not approve Tier 1 and Tier 2 funding, drastic reductions in current programs and services would definitely raise additional constitutional questions regarding the adequacy or suitability of funding for the children of our school district. We encourage the legislature to provide an adequate level of budget authority to ensure existing levels of services to all school districts. Furthermore, to subject school funding to a protest petition and a local public vote seems inconsistent with the legislative duty to provide suitable educational opportunities to the children of Kansas. While I have every confidence our public would be supportive of such an initiative, the duty for an adequate educational opportunity is owed to the children independent of such processes. I would suggest the Committee seriously consider altering the procedure for Tier 1 funding with sole discretion of the elected Boards of Education acting in concert with the intent of the legislature to provide an adequate or suitable funding level. I would extend this rationale further to Tier 2 as a decision to be approved by local boards of education and the State Board of Education.

As indicated by Judge Bullock in guidelines issued October 14, 1991,

"Section 6 (b) of Article 6 requires the legislature to provide suitable financing. 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."

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I contend a procedure which reduces the budget authority of a school district over \$8 million dollars raises serious questions about the suitability of educational opportunity for the children of our school district.

In addition to concerns previously stated, the timeline for implementation of Tier 1 and Tier 2 options creates serious impediments to planning for the 1992-93 school year. While HB 2892 provides sufficient funding for our district with utilization of Tier 1 and Tier 2, the procedure places substantial difficulty in knowing what level of funding would be available on a year-to-year basis. Our children deserve a more well-planned and consistent budgetary policy than one which could dramatically change annually. We would encourage the legislature to develop a plan with a view of the future and one which places emphasis on stability beyond one year periods.

In conclusion, the major concerns reflected today on HB 2892 are: 1) the per pupil allocation for establishment of the Base Operating Budget, 2) the procedure for authorization of Tier 1, the Local Option Budget, and Tier 2, the Local Enhanced Budget, and 3) the inherent difficulties with implementation of local options, especially for the 1992-93 school year. Again, we offer these suggestions to further improve HB 2892 in our efforts to serve the children of USD#233. We appreciate your consideration of these concerns and your continued efforts to construct an appropriate school funding procedure for Kansas. Thank you.

Doug LawrenceSTATE REPRESENTATIVE
902 MIAMI
BURLINGTON, KS 66839

TOPEKA

HOUSE OF
REPRESENTATIVES

3/25/92

COMMITTEE ASSIGNMENTS

MEMBER: AGRICULTURE AND SMALL BUSINESS
ENERGY AND NATURAL
RESOURCES
TRANSPORTATION

Senate Education Committee

I am from Burlington.

I am have been told that my position on school finance is clear, because of where I am from.

Even so, I feel compelled to put *forward* my position on the current proposal, and Judge Bullock's legal position on School Finance.

Let me say clearly, out of respect for this process, and a desire to have a rational -- lucid discussion of this issue -- I have chosen to NOT bring bus loads of people to this meeting. But You should understand, there is strong feelings in parts of my district about this plan ... and if I had wanted a crowd of support ... I could have brought that crowd.

As a new legislator, I have respect for your time and willingness to give this a fair hearing.

In addition, let me say as a father of three children, ages 5 -- 3 -- and 2, I want excellence in education for my children and your children. I do not want bargain basement ... or discount house education. I love my kids. I want the best for them.

But "Best" doesn't necessarily require more money. It requires change, innovative thinking and new ideas. I think the Best education we can offer our children, requires fiscal responsibility, planning for our future, and a realistic approach that assures that we can fund what we create as a legislature.

The Democratic Leadership plan, assumes that throwing more money ... 100 million dollars ... at education will make it better. And that throwing different money ... for property tax relief ... will some how ferment more educational opportunity for our children.

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The people in my district are willing to pay their fair share. But they want fiscal responsibility, local accountability, and reform in our schools ... now. Not a promise ... that we'll get to it next year or the year after that.

A budgetary process that awards dollars to a district, but does not provide incentive to be frugal ... necessarily leads to waste. At the start of the budgetary process now, the question most school boards must ask themselves is: How Much do we Need. This new plan will lead to a whole new question: How much can we get ... and how do we spend it? I don't think the tax payers of Kansas can afford many budget cycles with that predominant thinking.

I, and many of my constituents are concerned that ... a statewide levy ... is only a starting point. And that this plan will demand continued growth in the property tax element, to the point that it could be 65 mills or more in the coming years. It is hard to rise in support of a concept that is this open ended. I speak in some detail on this issue, in my testimony to the Senate Taxation committee which is included in your packet.

There has been much ado ... over local control. Now the Association of School Boards, KNEA, and large school districts say the local control issue has been addressed. I think not. A bone has been thrown in the direction of local control. But I say, what of the future. If we put enough money in the plan this year, many districts won't have to use the local option to fund their schools. But what happens in the years when the legislature does not make the same type of herculean budget effort. Will the local option be used to make up for the shortfall, and how long before there's no where to go with that levy. Others will address the local control issue in more detail. I am not convinced that local control ... is adequately addressed yet. Though things are much better now, than under Governor Finney's plan.

I do not believe that the educational opportunity afforded to the students in my school district is significantly higher than that provided to *most* other students in Kansas. As a matter of fact, I would argue that in the case of student-~~teacher~~^{teacher} ratios, the scope of course offerings, and a variety of other issues ... would indicate we are equal ... or maybe a little below that of many districts. Our spending is at the median. Many districts spend more per pupil than the Burlington Schools. If amount of money spent is a measure of educational opportunity ... we are not exceptional. The House plan must agree with that assessment ... because it gives the Burlington schools more money to spend.

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I feel we are making a grave mistake by redrawing the state school finance system on the basis of an untested opinion. A close review of the Judge Bullock's finding is important. I am honestly concerned that we have allowed the media, and a number of legislative leaders do all of the interpretation of this ruling for us. With some trepidation, I -- a non lawyer -- present an observation about the judge's position statement.

The judge's finding never calls for an equal property tax levy. It is particularly interesting to note the case law concerning education requires education opportunity to be provided without regard to the relative wealth of a school district. General case law in this situation has given the local property tax levy consideration only in cases where the levy was high enough to make it impossible for the district to have a reasonable opportunity to raise proper funding for the children of the district. Since Mill Levies in this situation are aggregates of several units of government, it is clear that the level of taxation of other units of government would have an impact on this as well. Even with a level statewide Mill Levy for schools, the aggregate levy would not be equal in all areas. Judge Bullock's opinion does not call for property tax relief. It does question whether there are some instances where high mill levies make it impossible in some school districts to adequately fund the education of our children. I believe that addressing the judge's concerns on property tax, involves adequate funding of the existing equalization formula, with a safety valve on the aggregate property tax levies in the highest school districts.

Imposition of a statewide limit, in which local units of government would be unable to provide funding for special cases or unusual needs ... if statewide education funding were inadequate in adjusting for unique costs on a local level, could create the same constitutional problem that a high mill levy creates.

Others will address more issues, I appreciate your indulgence in the length of this address. Time does not permit me to cover all of my major points, to that end, I am including with my testimony copies of testimony from other committee presentations I have made. In addition, I am including a copy of comments I made on the House Floor during debate of this program. In that comment, I reference the situation in other states.

In summary, I believe that -- if you want to provide tax relief, school finance is not the appropriate vehicle to attain that. I believe that you don't start the process of providing tax relief by increasing spending and increasing taxes. This plan hits new businesses -- young couples and families who must spend a larger portion of their income on consumables -- and rent their dwellings hard. It provides tax relief to the wrong people.

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I don't believe the uniform statewide mill levy would lead to equitable taxation. I think such an effort would only aggravate the problem.

A solution -- I believe -- is to take the current formula and make modifications. I, along with a group of House Republicans worked many -- many hours on such and effort. Our plan is defensible in court. It is as constitutional as the plan you have before you. And it includes fiscal responsibility -- tax fairness -- and fiscal honesty.

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A5-4

Doug Lawrence

STATE REPRESENTATIVE

902 MIAMI

BURLINGTON, KS 66839



TOPEKA

 HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS

 MEMBER: AGRICULTURE AND SMALL BUSINESS
 ENERGY AND NATURAL
 RESOURCES
 TRANSPORTATION

Senate Assessment and Taxation Committee

March 25, 1992

Mr. Chairman, Committee Members, I appreciate the opportunity to testify today.

I am from Burlington. I say that so it is clearly understood. But I believe I speak from a broader perspective. I would like to address the tax policy issues contained in the School Finance Measure before you.

You have probably heard much about the concept of tax relief, as it is embodied in this plan. We all want tax relief. But, I do not believe you can increase spending ... 100 million dollars ... and increase taxes nearly half a billion dollars and call it tax relief. To be sure there is a tax shift. There will be winners and losers. With 100 million dollars in increased spending -- there will be more losers than winners. And who will those losers be? Generally young couples who rent property -- new businesses who either rent space or do not have a significant property investments yet.

I have started two new businesses in four years. It was the hardest thing I had ever done -- until coming to the legislature. The early years of any business -- as are the early years of a family are the toughest. This new plan hits the wrong people too hard.

In establishing this school finance plan, we are raising about every tax possible and putting all of those resources into the schools. What will we do next year for the regents, SRS, and other state agencies? I believe that Kansas will be **all taxed out** this year, and not have access to any additional resources for many years. Are we willing to take from all other state programs for this huge increase in spending, or will we be pushing up the property tax rate in the future to free up some of the money flowing into the general fund for other things.

What price will the rest of the state pay?

I have alluded to the statewide uniform mill levy. This issue requires careful consideration. I'd like to break it into several pieces.

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First fiscal responsibility: If the levy is fixed by the state at a particular level -- what encouragement is there for school districts to be careful with their money. Will they be frugal when their patrons get no benefit from that effort in the form of lower taxes. I firmly believe that this policy of state determined budgets and state determined tax levies will lead to a spend it or lose it mentality. How many budget cycles can Kansas afford in a two billion dollar education budget, with this attitude? Will it be next year, or the year after that that some school district -- rightly or wrongly -- needs more money. And how will we provide it? I suppose the answer is in Tier two and three under this package. But think about what is happening there -- those two tiers allow different spending levels between identical districts. Those same tiers lead us to the constitutional question we are struggling with now. Either different spending levels are constitutional or not. If they are, our current plan can be made acceptable -- if they are not constitutional then we are going to spend a whole lot more money just to be unconstitutional.

Another issue is abatements of property taxes and IRB's. A statewide uniform mill levy assumes that everyone is making equal effort. With the ability to abate property taxes in the hands of local authorities, what encouragement is there for them to maintain their tax base. Counties and cities with large manufacturing bases or retail bases can use the sales tax for additional funding. Schools can not. Payment in lieu of taxes could certainly soften the blow to a county or city, but what of the state. No matter how much property is abated in a school district -- under this plan -- the 29 mill levy would stay the same. Would it be fair to shift the burden from one place to another, through abatements or IRB's by fixing this levy at a set amount regardless of actions by cities -- counties or school boards?

Uniform mill levies across the state assumes uniformity in appraisals and assessed valuations. Something we clearly do not have at this time. Can the state afford to have its school finance system in one court ... and its appraisal process in another.

Finally, Judge Bullock's opinion does not require a statewide uniform mill levy. His only point of contention on the mill levy issue comes from a New Jersey case, where inordinantly high AGGREGATE mill levies could be perceived to be interfering with a school district's ability to adequately fund education in their local situation. We do have that situation in Kansas. And the current SDEA provides an appropriate mechanism to address those problems with adequate funding.

In summary, I believe that -- if you want to provide tax relief, school finance is not the appropriate vehicle to attain that. I believe that you don't start the process of providing tax relief by increasing spending and increasing taxes. This plan hits new businesses -- young couples and families who must spend a larger portion of their income on consumables -- and rent their dwellings hard. It provides tax relief to the wrong people.

I don't believe the uniform statewide mill levy would lead to equitable taxation. I think such an effort would only aggravate the problem.

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A solution -- I believe -- is to take the current formula and make modifications. I, along with a group of House Republicans worked many -- many hours on such and effort. Our plan is defensible in court. It is as constitutional as the plan you have before you. And it includes fiscal responsibility -- tax fairness -- and fiscal honesty.

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Protest

Under Article 2, section 6 of the Kansas Constitution, I protest the action on House Bill 2892.

It's the long awaited day. We have finally reached the moment on truth on school finance. I have a lot of thoughts on this issue. Constitutionality, Fiscal Responsibility, Fairness, state taxing policy, and the Future. The future ... when I look at this plan ... that's what really scares the hell out of me. I see ... Nevada ... Colorado ... and Texas. Those states have not had good experiences lately with state plans.

In Nevada ... elastic revenues from Gambling and sales taxes were short this year. Last year, the state took money from some school districts that had some cash in the bank and used that money to fund schools who didn't. They did that rather than increasing taxes. This year, those districts who had collected a little in the bank ... and then lost it ... were faced with major budget cuts ... because the state ... again didn't fund schools to the level needed. Reductions in state aid, and lost revenues available locally, meant many districts had to make reductions in teachers...

In Colorado, there was a cap promised of 38 mills on the property tax for schools. While the legislature didn't continue to fund education ... cash balances dwindled in school districts. This past year, despite the promised cap, the legislature ... found some more money for schools ... they did it by authorizing a higher property tax levy.

Somewhere ... someday ... the obscene amount of new money we are putting in to this plan ... won't be enough. And the legislature will be held hostage to a plan that is clearly a money monster.

A budgetary process that awards dollars to a district, but does not provide incentive to be frugal ... necessarily leads to waste. At the start of the budgetary process now, the question most school boards must ask themselves is: How Much do we Need. This new plan will lead to a whole new question: How much can we get ... and how do we spend it? I don't think the tax payers of Kansas can afford many budget cycles with that predominant thinking.

I am from Burlington.

In addition, let me say as a father of three children, ages 5 -- 3 -- and 2, I want excellence in education for my children and your children. I do not want bargain basement ... or discount house education. I love my kids. I want the best for them.

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But "Best" doesn't necessarily require more money. It requires change, innovative thinking and new ideas. I think the Best education we can offer our children, requires fiscal responsibility, planning for our future, and a realistic approach that assures that we can fund what we create as a legislature.

The Democratic Leadership plan, assumes that throwing more money ... 100 million dollars ... at education will make it better. And that throwing different money ... for property tax relief ... will somehow ferment more educational opportunity for our children.

I feel we are making a grave mistake by redrawing the state school finance system on the basis of an untested opinion. We have heard ... think about the broader interests in the state ... we must rise above voting our district only. We must think first about the children of Kansas. I agree ... and add one more point ... we must think long term so that today's solution isn't next year's disaster. Look at Colorado, Texas, and Nevada. Their situation is no wonderland! The long term result of this plan is a question, I think, that all Kansans need answered.

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**TESTIMONY
OF
BILL GRIMES
SUPERINTENDENT
MOSCOW PUBLIC SCHOOLS**

PRESENTED BEFORE

**THE SENATE
EDUCATION
COMMITTEE**

March 25, 1992

RE: HB 2892

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Mr. Chairman, and Members of the Committee:

Thank you for providing the opportunity for me to speak to you today concerning H.B. 2892.

My name is Bill Grimes and I am the Superintendent of the Moscow Public Schools. As a member of the Kansas Education Coalition, we, along with the other 32 schools stand in opposition to H.B. 2892.

Allow me to outline those elements that we particularly oppose:

I. A Statewide Mill Levy, or an ad valorem of 29 mills, or a minimum mill levy by the State is a Socialistic concept that other parts of the world have only recently been able to overcome. Surely that is not the direction we wish to head. Next, there are no safeguards against future increases once the concept is sold to the public. What is to prevent us from being right back in the same predicament five years from now? Finally, even at 29 mills (instead of the original 45), the property taxes in one of our member's district will more than triple.

II. A Per Pupil Spending Cap is what will ultimately close our doors. The \$3625 (plus weighting factors) currently being proposed, leaves the Moscow Schools \$304,875 short of this year's budget. Even by utilizing the local option, we will still fall over \$176,000 short. Disparity in per pupil spending is inevitable, given factors such as geographical isolation. For instance, field trips to the zoo or a major manufacturer may cost a metropolitan school \$30 for busing, for Moscow it would cost possibly \$300 for transportation, plus meals, and maybe lodging for the same experience. Therefore, one cannot equate dollars spent with the quality of the educational product. If you could... one could state that Moscow students are approximately three times as well-educated as Shawnee County graduates; I doubt that anyone would concede that to be true. We strongly hope that those schools and

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communities that have been willing to support excellence in their schools with their tax dollars are NOT penalized for their efforts, because other areas of the State either could not or chose not to make a similar sacrifice. Indeed, if something needs to be done about per pupil spending, it should take the form of a MINIMUM amount rather than a maximum.

III. Loss of Local Control is an issue that affects all districts whether they are helped or hurt by the current proposal. Many say that districts have no local control now. However, local boards currently set local levies, approve budgets, set teacher salaries, etc., whereas under the increasingly centralized format, local boards will serve as figure-heads at best. And should some districts be forced to close down altogether, who could not call THAT loss of control.

IV. Community Effects is the last area I would draw your attention to this morning. I doubt that there is anyone in this room that doesn't have some tie with a small Kansas community. Just try to imagine that community without its school (it has already happened to some). In Moscow, people still talk about the State Champion Football team of 1978, and this year, for the first time in history, our girls basketball team qualified for the State Tournament. Academically, Moscow is serving as one of the 50 pilot schools in the State Q.P.A. Process, our students learn to utilize computers, Satellite Instruction, two-way interactive video, CD Roms, and Laser Discs. Our teachers have received training in Mastery Learning, Cooperative Learning, T.E.S.A., Learning Styles, Whole Language, and Inclusionary approach to Special Education. We have a near 100% graduation rate, a near zero dropout rate, 100% of our graduates go on to some sort of post-secondary education/training, and students leave their locker doors open because stealing from your neighbor is just not done. Take all of that away, and not only do you end up with another Kansas ghost-town, but a whole piece of life in rural Kansas will die, finally killed by the "BIG-IS-BETTER" syndrome - how sad.

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We would propose instead to **ADEQUATELY** fund our current formula, which has only failed due to **LACK** of proper funding. Impose **NO** statewide mill levy and **NO** per pupil spending cap. Instead, provide an avenue for those districts who are underspending per pupil to raise to a minimum amount as determined by the spending of other schools in their enrollment category. Please allow excellence to continue where it is already flourishing and help it to begin where it is **NOT!**

Thank you for your time.

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Christy C. Levings

Olathe National Education Association

Thank you, Chairman Harder and members of the Senate Education Committee, for the opportunity share my concerns with you today. I believe my concerns are similar to many you will hear today so I will be brief.

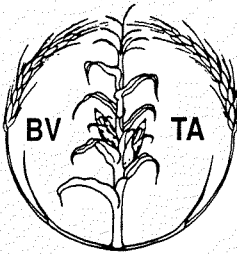
House Bill 2892 accomplishes some of the requirements of the Olathe District Schools in a funding bill (such as reducing our very high mill levy and providing adequate funding for our programs through the use of all three funding tiers) but, I want to point out some major flaws in this bill for you to consider as you begin to work.

First, the vote of the people outlined in tier two (when requested by protest petition) and in tier three (if using tier three at all) would require our school district and our staff to campaign and sell on a yearly basis the fundamental programs of our district. I am sure all of you realize that it is vitally important to maintain a secure and stable program for students without the need to worry constantly if these programs are in jeopardy. Secondly, the requirement to begin to participate in a quality performance accreditation system without the assurance of continued funding means once again that the price of moving forward to accomplish quality programs may be having the financial "rug" pulled out from under you.

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The Olathe District is a growing district and our staff will be working with increasing numbers of students but without assistance from the state to establish an equitable funding formula we know the quality of the programs we have worked so very hard to develop cannot be maintained. I believe it is the responsibility of the State of Kansas to provide a quality education to every student in this state - and to provide this in a stable and consistent manner. I urge you to remember that when the "smoke clears" from all of the political and judicial discussions the bottom line is whether our teachers can return to provide an adequate program for Kansas children. Their future and allowing their education to continue must be our major concern.

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BLUE VALLEY TEACHERS' ASSOCIATION

Celebrating Excellence

March 25, 1992

Chairman Harder, Honorable Senators and Committee Members,

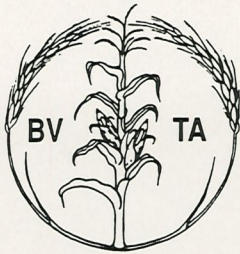
Thank you for allowing me to speak to you today regarding school finance proposals for the state of Kansas. I am a resident of Prairie Village, but I teach fourth grade in the Blue Valley School District #229 located in Overland Park. I stand before you today as a patron, a teacher and as the President of the Blue Valley-National Education Association.

First of all, I oppose the House Bill 2892 that passed out of the House two weeks ago. In its basic form it allows for 24 school districts to become losers in their current operating budgets. If these districts opt for the Tier II provision, then there will still be 11 losing districts. Unfortunately, the protest petition clause for the Tier II could cause all 24 districts to still be losers if a 5% portion of patrons choose to exercise their option.

If the remaining 11 districts are able to survive Tier II, then they would be able to opt for Tier III, which requires voter approval. No school district should have to face a public vote in order to maintain its current operating budget. Even if those districts make it through Tier III, there are 2 districts who will still be unable to maintain their current budget. It is unacceptable for any district to not be able to retain its current 1991-92 levels.

A second point I wish to address is that of QUALITY. We have heard over and over again about, "equal educational opportunities for all Kansas students." I agree that every child deserves an equal chance, but what about "quality in education" too. Nowhere in the basic premise of HB 2892 is the issue of quality addressed. How can one have equal education for all, without quality education?

"Quality" is the foundation and key component in our complex rainforest-like ecosystem known as education. HB 2892 will deprive our educational ecosystem of this key component. As we are all aware, the world's rainforests in order to survive, must be allowed to maintain their present levels of



BLUE VALLEY TEACHERS' ASSOCIATION

Celebrating Excellence

growth and development. Unfortunately, we continue to rob them of the necessary components critical to their survival, through deforestation. The educational system in the state of Kansas, like the rainforests, will be robbed of its key component, "quality," if House Bill 2892 is allowed to continue in its present form. We cannot allow our state's excellent educational system to be put on the "Endangered Species", list due to mediocrity. If we allow that to happen then we will see "quality education", become extinct in the state of Kansas!

My third point I address to you is this: "Don't rush into mediocrity for the sake of equality without quality". In order for our educational system to obtain the equal educational opportunities for all students, a sensible, well thought out course of action must be taken. You cannot and must not allow for another "quick fix" solution to our educational system's problems. To do so further endangers our already fragile educational ecosystem. Don't denude the system of quality, but instead let us all work together to fertilize and enrich the soil so other districts can flourish and begin to rise above mediocrity. A reasonable long range time frame must be established. We cannot rush from year to year with continual quick fixes.

In conclusion, there are three points to remember:

1. Do not allow for any decrease in a district's current operating budget.
2. Prevent the apparent "extinction" of quality in our educational system.
3. No "quick fixes", but a sensible, well thought out, long range plan,

Thank you again for this opportunity to speak today.

Richard H. Connell
President-Blue Valley NEA
10200 W. 124th St.
Overland Park, KS 66213
(913)-681-4325



P.S. You will notice that I have attached an endangered species stamp. This is to remind you to not let "quality education" become "endangered"!!!

FRANKLIN DEE WILLIAMS
3212 S. W. EVENINGSIDE DR. # 31
TOPEKA, KANSAS 66614
(913) 272 5392

FEBRUARY 12, 1992 & MARCH 25th 1992

Shawnee County Fair Grounds
Topeka Kansas

Re: School Finance Issue
prohibitions and any
possible cover up of
Organic Act grant of
Lands and perpetual
Fund Usurption in
Violation of Grant
and wrongful Voucher
approval:

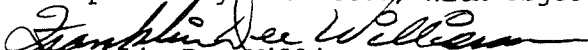
To Whom It May Concern:

My name is Franklin Dee Williams. I was ask to review what ever I could and report to anyone who was interested what ever I was^{to} observe and that brings me to the following.

1. I do not waive any previously set out position whether it be Official, Administrative, Political or Private, yet seek in good faith to offer my observations.
2. I was ask to review the Question of School Finance and I first reviewed the Organic Act, and more specifically Section 34 which seemed to set out a grant and what would seem to reserve 1,560 acres in each township of the Territory, followed by the Special Encatment in 1855 Chapter 58 and the peoples Constitution called the Topeka Constitution of 1855 the Vote of the people for their ratification on the fifteenth day of December, A.D. 1855 as wellas the United States Congressional Record daily minutes of 1856 and the CONCURRENT RESOLUTIONS - - Reaffirming The People's Constitution, Framed At Topeka On The 23rd Day Of October, A.D. 1855 as signed the 3rd day of August, A.D. 1857 as signed, and the act of Admission and who appears to have the authority over such at that time.
3. I reviewed the perported Opinion in documents of Division 6 Shawnee County Kansas Dated fourteenth day of October 1991 and the (3) Three issues (not herein set out) yet not objected to.
4. I observed that in attempt to review documents and records some measure of restrictiveness if not evidenced was present to prevent any early review and has to date not been resolved.

I have reason to believe and I do believe that without full cooperation by everyone at all levels of concern this matter will continue to be obstructed and proper resolve will not evolve. And that to require 60 copies of this is oppressive and may be found to restrict others from assisting.

Respectfully submitted, With Objection


Franklin Dee Williams

cc: Others

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No need for frenzy

PERSONAL VIEW

Robert F. Bennett
Former Governor



Editor's Note: *This is the first of a two-part analysis by former Kansas Gov. Robert Bennett on the state's school finance crisis. (See Memo column on Page One of today's issue).*

Bennett is a senior partner of the Prairie Village law firm that represents the Shawnee Mission School District.

Part two will appear Friday.

For longer than most of us can remember, the question of how to fairly and appropriately finance public education has been a major and sometimes quite divisive issue in legislative sessions. In 1973, after at least two years of study, the diverse interests of our state, rural and urban, wealthy and poor, Republican and Democrat, all decided to coalesce and support what was then a completely new concept in financing elementary and secondary education. This unique coalition had three basic principles:

1. State funding of education should be materially increased.
2. The state should pay a higher percentage of the cost of educating a student in a poor school district than in a wealthy district.
3. Within reasonable and workable budget limitations, the decision on the amount to be expended in each district should be made locally.

When all's said and done, the concept has worked quite well, particularly when it was fully funded by the state. Unfortunately, in recent years, though enrollments have increased, the state's share of the cost has reduced. The deficiency has been made up by increasing the property tax. Disenchantment with this neglectful approach to funding reached a fever pitch when first property taxpayers were hit by the increased burdens of reappraisal, hit again by new multimillion dollar property tax exemptions, and hit yet again by significant reductions in funding in the 1991 session.

A number of school districts filed suits challenging the adequacy of funding and the constitutionality of the funding formula. A district judge, before hearing any of the facts, set down in a pre-trial order his understanding of the general principles of law involved. The case has not been tried. It has not been decided. It has not been appealed. The Supreme Court of our state has not spoken of the matter previously and, until it speaks in the suits now pending, the current law is presumed to be constitutionally valid.

Notwithstanding this well-established legal presumption, a legislative frenzy of fear has developed, resulting in the belief by some that if the Legislature does not act, the courts will declare the law unconstitutional and run our schools or, worse yet, close our schools while the Legislature "fights it out." Feeding on these fears, unfortunately there are some with individual or provincial self-interests who are fully prepared to take advantage of the chaos that has developed to advance a totally new and untested proposal, free of the normal "deliberative process" that should accompany such a significant change. A far more reasoned approach would be to make those minimal changes that may be necessary, adequately fund the existing formula, and await the ultimate decision of the Supreme Court as to whether this program that has been used for two decades is basically constitutionally flawed.

Many patrons are concerned about what will happen if the Legislature does not act. Should that occur, the court will proceed to try the case now pending. It will hear testimony on the facts. It will hear arguments on the application of the law to those facts, and it will then make its decision.

The trial court could find that the law is constitutional or unconstitutional in its entirety, or it could find that certain provisions of the law are unconstitutional and that the others pass constitutional muster. This decision, whatever it happens to be, would then be ultimately appealed to the Supreme Court. While the appeal is pending, the trial court's order, to the extent there is a finding of unconstitutionality, would be stayed, and the law being challenged would continue in full force and effect.

Ultimately, the Supreme Court would decide the issues presented. If there is a finding that some provision of the law is unconstitutional but that the remaining provisions are constitutionally permitted, the law would continue with that modification until changed by the Legislature. Should it be decided that the entire plan is unconstitutional, the Legislature would be ordered to adopt a new plan in keeping with the constitutional mandates as interpreted by the court. The normal process,

should such be the court's decision, would be to stay the effect of its decision until the Legislature has an opportunity to respond to the mandate.

After the decision of the Supreme Court, the Legislature would be expected to act and would be able to act constitutionally because it would have before it the judicially enunciated constitutional principles that would apply. There would be no need for the wild speculation and conjecture now occurring as many try to guess what the court's decision will ultimately be.

It is only if the Legislature fails to act after receiving the court's ultimate mandate that there exists any possibility of a court-developed plan for school finance. Courts take on that responsibility with great reluctance and hesitation and then only when the office or body charged to act refuses to discharge that responsibility.

In my opinion, the claimed unconstitutionality of the current plan is far from a foregone conclusion. In fact, if one reviews the cases in other states and considers the court decisions that have been rendered in those states, there is a strong likelihood that our basic plan for school finance will withstand the challenge, particularly if there is some increased funding by the Legislature in this session and if there is improved budget authority for some of our low budget per pupil districts.

While there is, of course, merit in the Legislature attempting to resolve objections to the current system of school finance, resolution should occur in deliberative, well-reasoned, well-studied, and supportable fashion and not in haste out of some unjustified fear that the court will say that which it has not said and will do that which it has not done.

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Area schools will be victims

PERSONAL VIEW



Robert F. Bennett

Former Governor

This is the second of a two-part series on school finance, written by former Kansas Gov. Robert F. Bennett.

Bennett was a state senator for 10 years and helped to write the current school finance formula in 1973. He served one term as governor from 1975-79.

Bennett is a senior partner in the Prairie Village law firm Bennett, Lytle, Wetzler, Winn and Martin. The firm represents the Shawnee Mission School District.

One week ago, the Kansas House of Representatives passed and sent to the Senate a totally new, untried and untested plan for financing elementary and secondary education in this state. In an earlier article, I discussed the court challenges currently pending and as yet undecided. H.B. 2892 seems, in large part, an overreaction to what some fear the court might ultimately determine. Since the court has not decided the matter and, in fact, the case has not even been tried, this motivation is based primarily on guess and speculation.

In my view, though the bill as amended is infinitely preferable to the bill in its original form and to the first proposal submitted by the Governor's Task Force, it still leaves much to be desired. One would think that any time you throw an additional half billion dollars at a problem, you're bound to effect an improvement, if not a solution. I fear, however, that will not be the result for the three largest school districts in our county nor for a number of other school districts in Kansas and that, with the passage of time, it may not be the result for most of the school districts in the state.

In my opinion, these are some of the bill's major shortcomings:

1. The bill creates a totally artificial basic per

pupil budget limitation, essentially ignoring the amount currently being expended. For example, Shawnee Mission's basic budget authority will be reduced by 9 percent, Blue Valley's by 20 percent, and Olathe's by 13 percent. At the same time, many school districts in the state will be authorized to increase their basic spending by 10 percent to 20 percent and some by even more than 50 percent, all in a single year. While there is no argument that many of these districts need to have their budget authority increased, are increases of this proportion in one year either reasonable or wise? Is the state making "suitable provision" for the financing of education when, without evidence of reckless spending or provable need, the state requires some districts to cut their budgets by 20 percent and allows others to increase their budgets by the same or greater percentages?

2. The basic budget limitation contained in the bill is inflexible, lacking any practical ongoing response to inflation or emergency needs over which the district has no control. This means that annually the governor and the Legislature must battle over the adequacy of the limitation. It is reasonable to assume, based upon what has happened in the past, and based upon the fact that any increase will mean an increase in state dollars appropriated to the program, that funding will lag and education will suffer.

3. In an effort to address this problem, the House bill allows a district to exceed its limitation by up to 10 percent, subject to voter protest, which would then require an election. This is fine for districts that will enjoy an automatic 10 percent or 20 percent increase in their spending authority without being forced to use the procedure. The requirement is unduly burdensome, if not mischievous, for districts that must attempt to use the provision just to maintain their currently operated educational program. Worse yet, even with the use of this procedure, Shawnee Mission's current comparable budget per pupil would still be reduced by 1.5 percent, Blue Valley's by 16 percent, and Olathe's by 8 percent.

4. In an effort to further address this problem, a second option is provided. The district could go to a mandatory vote of the people for additional budget authority. For many school districts this could be a second "tax increase election" in one summer. If the district receives voter approval, it, and all other districts using the option, would become something of a super taxing district and a uniform

tax levy would be made against all of the districts to support their aggregate expenditures authorized by the option. Many districts could find themselves taxing their patrons for far more than they need because they elected to be in the pool. The unfairness of such a proposal is so apparent that it is unlikely any district would use it except under extremely necessitous circumstances where districts such as Blue Valley and Olathe may have to use it in order to just survive.

5. Unfortunately, the House bill as drawn does not allow the options discussed above, if successfully used, to become a part of a school district's future budget base. As a consequence, these are procedures that would have to be utilized year after year just to maintain the status quo, let alone provide enrichment.

6. Part of the funding for the House bill comes from a so-called uniform statewide property tax levy of 29 mills. This provision may ultimately create far more problems than it solves. Allowing the state to use the property tax to discharge its state obligations in the area of education sets a dangerous precedent for its use of the property tax to discharge state obligations in other areas of service. Additionally, what starts as 29 mills may ultimately end up at a much higher rate, making a bill originally passed to provide property tax relief into a springboard for increasing the property tax burden. Finally, given the fact that real property is subjectively valued differently in each of the 105 counties of our state, the utilization of a statewide uniform levy of such significant proportions invites constitutional challenge and may ultimately be used as the rallying flag for those who want to see property appraised totally at the state level.

7. Although nearly a half billion new tax dollars are to be raised by the various tax proposals contained in the bill, this money does not go into a separate fund for education or for property tax relief. It just goes into the general fund where there is no guarantee that what was raised in the name of education will in subsequent years be used for that purpose.

House Bill 2892 may be infinitely preferable to many of its earlier versions, but, in my view, it falls woefully short of addressing the educational needs of the three largest districts in Johnson County, as well as a number of other districts in the state that will be its initial victims. In time, however, if misery loves company, the victim list is bound to grow.

7-6
2/5/76
2/6/76

Still hope in Kansas for sensible school aid formula

The glue which held Johnson County school districts together in the Legislature gave way last week with the House's passage of a statewide uniform mill levy to finance schools.

Gov. Joan Finney may be the reason they get back together — unbelievable as that may seem, given the governor's criticism of Johnson County schools.

Most Olathe area representatives voted for the plan. It contains initially sizable

LAURA SCOTT

property tax relief for their constituents. But the Olathe School District also would have to turn around and increase property taxes in order to recoup cuts in its budget.

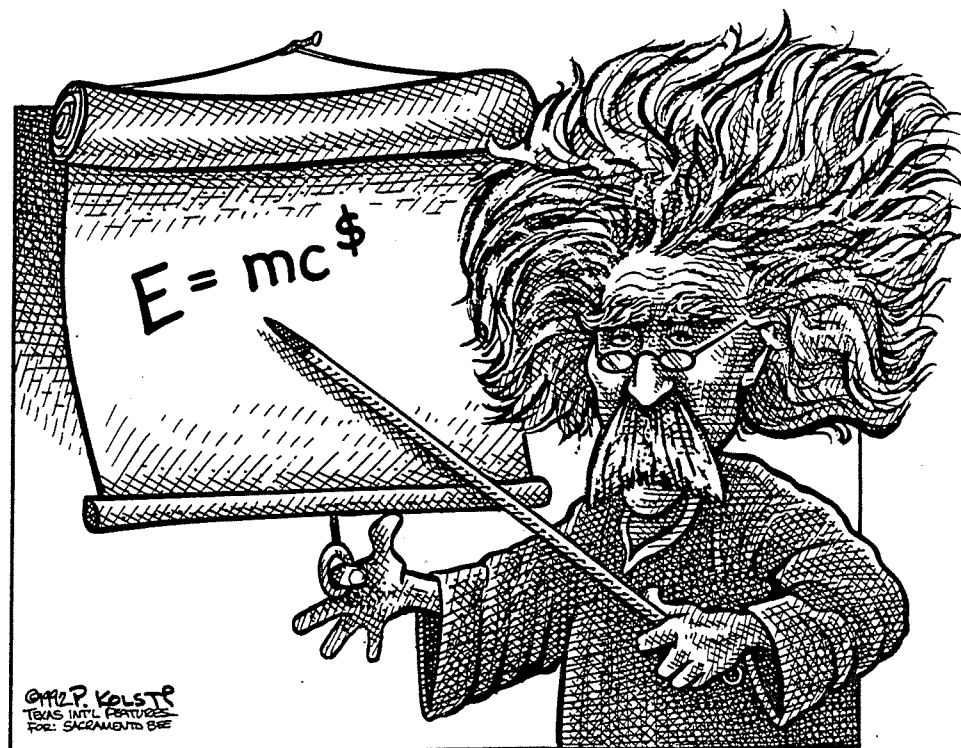
Most Johnson County legislators who represent Blue Valley or Shawnee Mission districts voted against it. Exceptions were Democratic Reps. Gary Blumenthal of Merriam and Carol Sader of Prairie Village, who followed the House Democratic leadership in support of the plan. Rep. Judith Macy who represents De Soto and Gardner/Edgerton also voted in favor.

The House plan is particularly harmful to Blue Valley, which might not be able to replace lost funding for teachers and programs. But beyond that, Johnson County opponents have questioned the wisdom of making education dependent on a uniform mill levy — a levy which would be set at least every two years in the politically-charged Legislature, in a debate not unlike what has gone on this year.

However, all is not lost in the effort to get a school finance compromise which can appeal to all of Johnson County — and which would be better for Kansas as a whole.

Enter the governor.

Finney, in a speech to the Overland Park Chamber of Commerce said she would veto the House bill because of its dramatic increases in sales and income taxes.



The governor challenged the Legislature to finance the House plan in a way cheaper than \$453 million. She wants legislators to eliminate some sales tax exemptions, adopt video lottery, and reduce the state treasury's balances. Those were her recommendations in her original plan to the Legislature, and she hasn't changed her tune.

However, under Finney's first school plan, the statewide levy would have been at 45 mills. Going to 29 mills as the House proposes would take much more money from other sources to pay for the additional property tax relief. That is, unless the Legislature is prepared to have school districts suffer drastic consequences in teacher and program cuts.

The governor did not indicate in her speech that she recognized that fact. She praised the 29-mill levy but criticized raising the other taxes required to protect school districts from massive cuts.

If Finney holds fast in her veto threat, then legislators are going to have to find something which pleases the governor. Or, perhaps more realistically, something which pleases enough lawmakers to override a veto. The House plan passed two votes shy of the two-thirds needed for an override. But several "yes" votes there are considered "mushy."

Enter the Senate.

Voices of reason are coming from the Senate, particularly from the Johnson County delegation. Senators do not appear to be in the mood to pass a bill with a price tag as high as the House's in order to finance a plan which has many dangers for all of the state's schools.

Various senators are more interested in restoring the validity of the state's current

school equalization law, which has served Kansas well for the better part of two decades.

No plan to fix things can work unless the state pumps in more revenue. But fixing the current school funding system could be done with much smaller tax increases than what the House proposes, some senators believe. And still there would be property tax relief.

Besides, under the House plan, any tax relief from a 29-mill levy would be a fleeting thing. Property taxes most assuredly would go up in future years, perhaps dramatically. This would happen if the Legislature didn't raise more revenue or cut other spending to provide for increased costs of education.

Pinning education's fortunes to gambling — the video lottery proposal — makes for a very unstable source of revenue for the schools. Reducing the balances in the state treasury, as Finney has proposed, is a one-year financial gain. What happens the next year?

In Overland Park Finney dodged that question. She said she would address the problem later. Later will be too late. Kansans have a right to know before their legislators finalize anything how property taxes could possibly ride at the same level every year without destroying schools. They have a right to know what the governor would do about that.

The House bill doesn't resolve the issue. The Senate has a chance to adopt a school finance plan which stabilizes school funding, isn't a hoax on the taxpayers, and still meets the judicial requirements of equalizing educational opportunity.

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FRANKLIN DEE WILLIAMS
3212 S. W. EVENINGSIDE DR. # 31
TOPEKA, KANSAS 66614

(913) 272 5392

²⁵
MARCH ~~30~~, 1992

Re: Supplement to School Finance Issue
prohibitions and any possible cover
up of Organic Act Grant of Lands
and perpetual Fund Usurption in
Violation of Grant and wrongful
Voucher approval.

Again To Whom It May Concern:

Dear Secretary to Joseph C. Harder:

This is to confirm our conversation this last week where you ask me to make further comment and you would include such to the Committee on Appropriation and Taxation I believe that was hearing evidence and or testimony on HB 2219 due to the fact that I could not return the day when the Committee was to take up the subject again and due to the fact that the time ran short when I was there and was not able to be called.

1. I believe that any meeting to discuss school finance or any bill that would not have as the starting formula the Organic Act provisions of Section 34 would be unconstitutional and amount to aiding and abetting the usurption of the Trust property.
2. I drew your attention to having the letter to Clyde D. Graeber from Legislative research that mentioned that in 1970 the school fund was transferred to KEPERS and later possibly to the General fund, that I understand has not been probed, would have to first be settled.
3. I then drew your attention to the Organic Act listed Case law of The State v. Stringfellow 2 K. 263. and that I shepardized such and found that the law has never been challenged, as stated:

"construed - - to contain something more than a mere reservation from sale, and that it amounts to a grant of the lands therein described to the people of the Territory, for the use of schools."

4. I also cited to you the historical information I acquired from the University of Kansas Law Library of the Resolution by the U.S. Congress and Senate that instructed former Governor Crawford that the land were not to be sold and if sold they must be replaced.

If you have any further questions please feel free to contact me at once.

Thank You for your consideration.

Enclosures # 11.

Franklin Dee Williams
Franklin Dee Williams

cc: Others

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the appropriations, nor beyond the sums thus appropriated for such objects.

History: 10 Stat. 288; ch. 59, § 30; May 30, 1854.

§ 31. Seat of government. That the seat of government of said territory is hereby located temporarily at Fort Leavenworth; and that such portions of the public buildings as may not be actually used and needed for military purposes may be occupied and used, under the direction of the governor and legislative assembly, for such public purposes as may be required under the provisions of this act.

History: 10 Stat. 289; ch. 59, § 31; May 30, 1854.

§ 32. Delegate to the house of representatives; operation of federal laws. That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives, but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections the times, places and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of nonintervention by congress with slavery in the states and territories, as recognized by the legislation of eighteen hundred and fifty, commonly, called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any territory or state nor

to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth of March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

History: 10 Stat. 289; ch. 59, § 32; May 30, 1854.

§ 33. Public buildings. That there shall hereafter be appropriated, as has been customary for the territorial governments, a sufficient amount, to be expended under the direction of the said governor of the territory of Kansas, not exceeding the sums heretofore appropriated for similar objects, for the erection of suitable buildings at the seat of government, and for the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said territory, and such other persons, and under such regulations as shall be prescribed by law.

History: 10 Stat. 289; ch. 59, § 33; May 30, 1854.

§ 34. Lands. That when the lands in the said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said territory and in the states and territories hereafter to be erected out of the same.

History: 10 Stat. 289; ch. 59, § 34; May 30, 1854.

CASE ANNOTATIONS

1. Section amounts to grant of lands for use of schools. *The State v. Stringfellow*, 2 K. 263.

§ 35. Judicial districts. That until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation, to be issued by him; but the legislative assembly, at their first or any sub-

2385

SUSAN
SALT SAM

2835

Concept of 3rd Year - Locally,
To. 10.

ORGANIC Act. ^{Starting} _{Formula.}

1. WAS THERE A TRUST.
2. WAS IT TO ESTABLISH A PERPETUAL FUND
3. HOW MUCH FUNDS WERE ESTABLISHED.
4. HOW MUCH WOULD ^{WE EXPECT} SECTIONS
+ Produce Today.
5. IF FUNDS WERE DEPOSITED
WERE ANY TRANSFERRED TO KAPPA
6. IF SO WHAT FUNDS WOULD BE RETURNED
7. NONE OF US SHOULD PARTICIPATE IN
A COURT UP. OR AN ATTEMPT TO
UN-CONSTITUTIONALLY SEND A TAX BEHIND
WE TRULY KNOW IT'S NEEDED.

Bill PETERSEN burger →
DAVID RYAN. some letters

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seat of government for the use of the Governor, Legislative Assembly, Judges of the Supreme Court, Secretary, Marshal and Attorney of said Territory, and such other persons, under such regulations, as shall be prescribed by law.

SEC. 34. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory, shall be, and the same are hereby reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

Survey of lands. Sections sixteen and thirty-six reserved for Schools

SEC. 35. *And be it further enacted*, That until otherwise provided by law, the Governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation, to be issued by him; but the Legislative Assembly, at their first or any subsequent session, may organize, alter or modify such judicial districts, and assign the judges and alter the times and places of holding the courts, as to them shall seem proper and convenient.

Judicial Districts.

SEC. 36. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Kansas, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and place, and in such manner as the Secretary of the Treasury may prescribe.

Officers required to give bonds and security

SEC. 37. *And be it further enacted*, That all treaties, laws and other engagements made by the government of the United States with the Indian tribes inhabiting the Territories embraced within this act, shall be faithfully and rigidly observed, notwithstanding any thing contained in this act; and that the existing agencies and superintendencies of said Indians be continued with the same powers and duties which are now prescribed by law, except that the President of the United States may, at his discretion, change the location of the office of Superintendent.

Treaties, laws &c., to be enforced.

Approved, May 30, 1854.

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V.
STATECRAFT.

A HISTORY OF THE KANSAS SCHOOL FUND.¹

Prepared by CHARLES HANFORD LANDRUM.²

AT THE beginning of the Revolutionary War the various colonies claimed all the territory north of the thirty-first degree, extending westward to the Mississippi river and the Great Lakes. The boundaries of these claims were not well defined, which gave rise to frequent disputes among the colonies. The territory west of Pennsylvania and north of the Ohio river was claimed by Virginia, Connecticut, New York and Massachusetts. No survey of the territory ever had been made, and the claims overlapped. As early as 1775 the disputes between Pennsylvania and Connecticut became so serious that they were laid before the Revolutionary Congress, which in December of that year accordingly recommended "that the contending parties cease hostilities in regard to conflicting claims on the Susquehanna river, near Wyoming, until the dispute could be settled by legal process."³ A similar dispute arose in 1779 between Massachusetts and New York over the New Hampshire land grants. Early in that year, owing to trouble between the citizens of New York and those of the land grants, Congress appointed a committee "to inquire into the reasons why they refuse to continue citizens of the respective states which heretofore exercised jurisdiction over said district."⁴ This committee never met, and on September 24 Congress passed a resolution recommending "to the states of Massachusetts Bay, New Hampshire and New York forthwith to pass laws expressly authorizing Congress to hear and determine all differences between them relative to their respective boundaries in the mode prescribed by the Articles of Confederation."⁵ One week later this resolution was repealed, because the Articles of Confederation did not provide "for hearing and determining disputes between any state and the guarantees of another state."⁶

Before the close of the Revolution it was evident that conflicting claims would be a cause for discord among the states. The government, owing to the expense of the war, was in debt and much in need of money to estab-

NOTE 1 (by the author).—This paper was submitted as a thesis in the department of history in the State University of Kansas, and was accepted as a partial requirement for the degree of master of arts. The work is incomplete and perhaps inaccurate; but the author hopes it may be of service to some fellow student who is studying the same or a kindred field.

NOTE 2.—CHARLES HANFORD LANDRUM was born April 1, 1881, at Frankfort, Marshall county, Kansas, the son of George B. Landrum and Sarah (Vaughn) Landrum. His father was from Dekalb county, Missouri, and his mother from Henderson, Ill. He was educated in the Frankfort high school, and later secured degrees for work at Kansas University and at Yale. In 1905-'07 he was superintendent of schools at Belle Plaine, in 1907-'09, at Eskridge, and is now superintendent at Cnaga. He is unmarried, and is at present engaged on a thesis concerning the territorial courts of Kansas.

NOTE 3.—Journals of Congress, vol. 1, p. 279.

NOTE 4.—Ibid., vol. 5, p. 180.

NOTE 5.—Ibid., vol. 5, p. 276.

NOTE 6.—Ibid., vol. 5, p. 283.

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STATE OF KANSAS

RICHARD W. RYAN,
DIRECTOR
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ASSOCIATE DIRECTOR
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CHIEF FISCAL ANALYST



STAFF-
LEGISLATIVE COORDINATING COUNCIL
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LEGISLATIVE INQUIRIES

THE LEGISLATIVE RESEARCH DEPARTMENT

ROOM 545-N, STATEHOUSE
PHONE: (913) 296-3181
TOPEKA, KANSAS 66612

October 28, 1991

Representative Clyde Graeber
P.O. Drawer 189
Leavenworth, Kansas 66048

Dear Representative Graeber:

This letter is in response to your inquiry about the long ago federal grants of certain sections of land in each Kansas township for the use of schools. Enclosed is a copy of the language in question. It is my belief, and Arden Ensley of the Revisor's Office agrees, that the underscored part simply means that if section 16 or section 36 could not be granted because they already had been disposed of, then comparable lands would be substituted for such sections as the grant to the state. It does not mean that when the lands granted were sold by the state other land had to take their place as a grant to the state. If that were the case, the effect would have been to grant more than two sections in each township.

Further evidence of my reasoning is found in Chapter 102 of the *Kansas Laws of 1864*. That Act authorized the sale of sections 16/36 lands "together with all such (lands) as have been granted in lieu of said sections," subject to approval by a vote of the people at the election held in November of 1864. (An election was required by a section of our *Constitution* no longer in existence.) Over time, the lands granted to the state were indeed sold. There is a notation to this effect preceding section 72-2101 in *Kansas Statutes Annotated* (Volume 5A) and that section also refers to the "in lieu" language underscored above.

Prior to 1966, the *Kansas Constitution* contained provisions establishing the State Permanent School Fund and requiring the income therefrom to be disbursed annually to school districts (Sections 3 and 4 of old Article 6). Money in the Permanent School Fund, including the proceeds from the sale of sections 16/36 lands, was invested and the income (along with certain other revenue) was credited to what was the Annual School Fund for distribution to school districts. Sections 3 and 4, and some others, were eliminated from the *Constitution* when the voters approved revision of Article 6 in 1966, but the two funds continued as statutory creatures for several more years.

In 1970, House Bill No. 1971 was enacted to merge the old state school retirement system with KPERS (now referred to as KPERS-School). That law required the transfer of the assets of the State Permanent School Fund to KPERS in lieu of the employer (state) contributions in 1971, and the fund was abolished after the transfer was made. Beginning in 1972, employer contributions for KPERS-School have been transferred from the State General Fund.

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Representative Graeber

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The Annual School Fund, which had received revenue (mainly from the motor carrier property tax) other than income from investment of the Permanent Fund, was abolished in 1974.

I might have told you more than you want to know, but please contact me if anything in this letter is not clear.

Sincerely yours,

Richard W. Ryan, Director

RWR/bd/91-944

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Malone v. Murphy.

To sustain the action for malicious prosecution, two things are essential—malice and want of probable cause. Malice is not of itself sufficient; neither is want of probable cause. Both must concur. Affirmative proof of malice is as necessary as affirmative proof of the absence of probable cause. Both are issues to be submitted to the jury, and both must be found from the testimony, as facts, by the jury, to sustain a verdict for the plaintiff.

How, then, can they be said to find from the testimony that there was malice if the court shall say to them that the evidence which shall convince them of the absence of probable cause *must* convince them of the existence of malice? The evidence might clearly show that the defendant acted in the best of faith, but upon an entirely innocent mistake of fact. The jury might be fully satisfied of the entire absence of probable cause in such a case; yet [*263] the rule as given the jury by the court below would compel them to find that the prosecution was malicious. The real effect of the rule would be that the jury would find one of the essential facts, and the court would find the other, and compel the jury to adopt its finding.

Such we do not believe the law to be. The jury may consider the absence of probable cause as a circumstance tending to show malice. It may be in individual cases a circumstance sufficient to satisfy them of malice. They are to be the sole judges of that. They are not bound by the law to be so satisfied. They may infer malice from want of probable cause, but they are not bound so to infer it.

Therefore we think the court erred in charging the jury that malice was implied from want of probable cause, and the judgment will be reversed.

All the justices concurring.

The State v. Stringfellow.

THE STATE OF KANSAS V. BENJAMIN F. STRINGFELLOW.

1. EJECTMENT. To maintain ejectment, the plaintiff must show a paramount title or fail in the action.¹
2. SCHOOL LANDS: *Grant construed*. Sections sixteen and thirty-six, in each township, granted to the State by act of Congress, admitting the State, of January 29th, 1861, for the purposes of schools, were, by the provisions of section three of that act, vested in the State, unless before the passage of the act they had been "sold or otherwise disposed of" by the United States. The selection and occupancy of such lands, before the survey thereof, gave the occupants no right whatever unless that were followed by a purchase from the United States prior to the public sale of the body of lands, in which they were included. It seems that the claim of such lands in September, 1854, before the public survey and the occupancy thereof, and the laying out thereof into lots as a town site, without an attempt to purchase from the United States, would not have prevented the title from vesting in the State under the act of admission.
3. KANSAS-NEBRASKA ACT. The object of the act of May 30, 1854, was to define the boundaries of, and establish municipal governments with, in the Territory of Nebraska and [*264] Kansas, with all the necessary governmental machinery in the inauguration and management of which, the people were omnipotent under the restrictions of the constitution and laws of the United States, with legislative powers extended to all rightful subjects of legislation, including the power to establish schools.

NOTE.—Since the decision in this case, there can be no question concerning the power of the Territorial authorities of Kansas to sell school lands during the time that Kansas was a Territory, nor concerning the validity of the laws of the Territorial legislature passed for that purpose. (*Stout v. Hyatt*, 13 Kas., 283.)

[1] The plaintiff may show a paramount title to any part of the premises described in his petition. (*Benz v. Hines*, 3 Kas., 300; *Everett v. Lusk*, 19 Id., 195.) An equitable title may be sufficient to sustain an action to recover the possession. (*Railway v. McBratney*, 12 Id., 9.) The party having the better title may always recover, whatever that title may be, legal or equitable. A plaintiff must recover on the strength of his own title; but if his title is better than that of his adversary, he may recover, however weak his title may be (*O'Brien v. Wetherell*, 14 Kas., 622); even though the legal title to the property may be outstanding in some third person. (*Duffey v. Rafferty*, 15 Id., 9.) Mere prior possession, with claim of ownership, would probably be sufficient to enable the plaintiff to recover as against a party who has no right to the premises. (*O'Brien v. Wetherell*, 14 Kas., 622.) The question of who shall recover in such an action, depends entirely upon the question who has the paramount right to the property in controversy. (*Simpson v. Doring*, 16 Kas., 248.) When mere priority of possession gives precedence (*Duffey v. Rafferty*, 15 Kas., 9; *O'Brien v. Wetherell*, 14 Id., 622.) Under condition subsequent. (*Piper v. Railway*, 14 [L., 574.) Possession is itself title in low degree. (*Mooney v. Olson*, 21 Id., 691.)

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The State v. Stringfellow.

- 4. PUBLIC GRANT. No particular words are necessary to constitute a grant of lands, especially for public uses.
- 5. SCHOOL LANDS: *Organic act construed.* Section 34 of the Organic Act, providing that when lands in the Territory shall be surveyed, "Sections No. sixteen and thirty-six in each township, shall be and the same are hereby reserved for the purpose of being applied to the use of schools in said Territory, and in the States and Territories to be hereafter erected out of the same," construed to contain something more than a mere reservation from sale, and held that it amounts to a grant of the lands therein described to the people of the Territory, for the use of schools. (This principle is the settled law of the State. *Baker v. Newland*, 25 Kas., 30.)
- 6. —: *Salé.* The object of the grant was to furnish a basis for a perpetual fund for the benefit of the people, and they were authorized to make the lands available during the Territorial existence. A sale of lands or a part, held to have been contemplated, and the manner of making them available was properly entrusted to the legislature to determine, and a conveyance by its authority (Act of 1855) of the land in controversy, to the grantors of the defendant, vested the title in them, and as their assignee the defendant was entitled to the possession of the land.

Error from Atchison District Court.

THIS is an action in the nature of ejectment brought by the State of Kansas against the defendant in the District Court of Atchison county, to recover the possession of a part of the southeast quarter of section 36, township 5, range 20, and known as lot 1 in block 63, in the city of Atchison. The case was submitted to the judge of the District Court, on the following agreed statement of facts:

"It is agreed between the parties that the land in dispute is a portion of section No. 36, in township No. 5, in range No. 20, in said Atchison county. That before the survey of the public land in said county, to-wit: in September, A. D. 1854, said section was claimed, occupied and laid out into lots as a town site, and was in June 1857, patented by Hon. R. J. Walker, then Governor of Kansas Territory, to the Atchison Town Company, a duly existing corporation under the laws of said territory, and that said defendant

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Brief of Plaintiff in Error.

now has all the title to said land which was conveyed to [*265] said town company by said governer in said patent, and no other title or right thereto except such as he derived as assignee of and from said town company. It is further agreed that said town company had not at said time, nor has since received any title to said land except such as derived by virtue of said patent; and that the State of Kansas, by joint resolution of its legislature approved January 20, 1862, accepted the proposition of the act of Congress for the admission of the State of Kansas into the Union, approved Jan. 29th, 1861, and that the Interior Department of the United States, in its report of sections sixteen and thirty-six, sold or otherwise disposed of, did not report said section to the State of Kansas before sold or otherwise disposed of, and that said State has selected no lands in lieu of said section. It is further agreed that defendant now claims exclusive title, and holds possession of said land adversely to plaintiff, and that plaintiff has never parted with any title to said land, or possession thereof, voluntarily (if plaintiff ever had any), unless the State be held to have so parted with its title as the successor of said Territory.

"It is further agreed that taxes were assessed on and collected of said land, after it was patented as aforesaid, by the treasurer of said county, for the use of said county and territory, and also for the use of the State since its admission.

"It is also agreed that the public sales of the body of land, in which the land in dispute is included, were made in September, 1859."

The court found for the defendant, and the case is brought here by the State on error

W. W. Guthrie, Attorney General, for plaintiff in error.

1st. The defendant claims that the language "when," etc., "sections numbered sixteen and thirty-six, in each township in said territory, shall be, and the same are hereby reserved for the purpose of being applied to schools in said

SHEPARD'S KANSAS CITATIONS CASES

A COMPILATION OF CITATIONS

TO

KANSAS CASES REPORTED IN THE VARIOUS SERIES OF KANSAS REPORTS
AND IN THE PACIFIC REPORTER

THE CITATIONS

which include affirmances, reversals and dismissals by the Supreme Court of Kansas and the
United States Supreme Court

APPEAR IN

MCCAHOON'S REPORTS
KANSAS REPORTS
KANSAS COURT OF APPEALS REPORTS
PACIFIC REPORTER (Kansas Cases)
UNITED STATES SUPREME COURT
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STATES SUPREME COURT REPORTS
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FEDERAL CASES
FEDERAL REPORTER
FEDERAL SUPPLEMENT
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and in annotations of

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AMERICAN LAW REPORTS

also, for Kansas cases reported prior to the Pacific Reporter, as cited in all units of the
National Reporter System and in Vols. 1-283 Illinois Appellate Court Reports, Vols. 1-19
Ohio Appellate Reports and Vols. 1-101 Pennsylvania Superior Court Reports

FOURTH EDITION ----- CASES 1986, PART 2

SHEPARD'S/McGRAW-HILL
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COLORADO 80901



Date

1-29-86

Number

100 401 C4

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Vol. 2	132Kan'687	56Kan'570 4KanA'6 1935JCB55 1935JCB73 1951JCB41 156AR1151n 40A227n 40A2105n 40A2147n	69Kan'72 162Kan'724	96AR866n 96AR876n 13A3161n	-483- (43P993)		-634- (42P942)
-1- (42P392)	-118- (43P295)	-251- (41P1066)	-313- (43P95)	-401- (42P745)	s10KanAxviii 5KanA'755 5KanA'789 f9KanA'518 109AR462n	-545- (43P980)	-638- (42P935)
207Kan'715 1KanA'690 6KanA'3114	134Kan'791 4A2851n	153Kan'534 1935JCB68 1935JCB71 1951JCB37	-315- (43P101)	-404- (42P744)	f9KanA'518 109AR462n	11JBK208	s10KanAxviii 97Kan'105 215Kan'330
-7- (41P988)	-125- (43P294)	-255- (41P1068)	-319- (43P97)	93Kan'701 119Kan'162 129AR13n 129AR41n 129AR43n	-488- (43P991)	-550- (43P982)	-642- (42P938)
-13- (41P1113)	172Kan'2528 47JBK219	116Kan'585 100AR392n 111AR580n	s10KanAxviii 71Kan'84 2KLR371	2KanA'515 5AR439n 34AR849n 53AR525n	2KanA'515 5AR439n 34AR849n 53AR525n	-554- (43P984)	5KanA'253
-23- (41P991)	-130- (43P317)	-260- (41P1061)	-330- (43P863)	-407- (42P733)	-492- (43P997)	f3KanA'684 8KanA'227	-644- (43P806)
cc46Kan758 5AR1073n	164AR538n	cc2KanA'269 213Kan'386 22AR385n 41A2496n	-337- (43P861)	60AR823n	s10KanAxviii 1933JCB65 2AR783n 34AR1091n	-558- (44P747)	-649- (43P796)
-28- (42P55)	-145- (43P293)	116Kan'585 100AR392n 111AR580n	s51Kan684 s51Kan685 76AR579n	-411- (42P1003)	2AR783n 34AR1091n	-568- (44P745)	-652- (43P792)
57Kan'704	-149- (43P291)	-269- (41P1063)	-342- (43P785)	f62Kan'708 j62Kan'708 116Kan'139 155Kan698	34AR1091n	151Kan'577 f81F'584	s9KanA883
-41- (42P59)	-154- (43P289)	cc2KanA'269 213Kan'386 22AR385n 41A2496n	s8KanA'431 f3KanA'674 5KanA'482	-419- (42P1006)	-498- (43P985)	-575- (44P687)	-662- (43P788)
-47- (43P315)	-160- (43P288)	213Kan'386 22AR385n 41A2496n	-352- (42P593)	4KanA'151 21F2d'142 69AR540n	-505- (43P977)	-581- (44P750)	s9KanA'197 s10KanAxviii 95AR165n 40A2882n 5A2132n
-53- (43P314)	-165- (43P284)	cc2KanA'260 213Kan'386 22AR385n 41A2496n	f62Kan'570 104Kan'558 8KanA'637 f84F'134	-508- (43P977)	70AR596n	49AR1301n 71A2657n	-673- (43P798)
-55- (43P312)	-167- (43P284)	213Kan'386 22AR385n 41A2496n	-357- (42P734)	f88Kan'101 35AR1373n	-508- (43P977)	-587- (44P686)	f7KanA'294 f8KanA'633
108Kan342 8AR1175n 145AR746n	37A2986n 37A21005n	-272- (42P411)	f122Kan'389 f176US567 f44LE592 f20SC480 f216F'324 79AR1537n 92AR1042n	-513- (43P996)	35AR1373n	-591- (44P752)	-679- (43P800)
-62- (43P311)	-178- (43P299)	s10KanAxviii q60Kan'492 f74Kan'733 169Kan'227 159AR113n	58Kan'362 e122Kan'389 f176US567 f44LE592 f20SC480 f216F'324 79AR1537n 92AR1042n	f6KanA'261 10AR530n 10AR607n 14A2234n	-516- (43P979)	10AR530n 10AR607n 14A2234n	-687- (43P796)
191Kan'636	D10KanAxviii 170Kan'616 131AR1210n 131AR1218n	-280- (42P409)	-361- (42P735)	2KanA'2341	9KanA'3593 113AR1376n	132Kan'85 132Kan'85	f5KanA'192
-68- (43P309)	-193- (43P276)	-287- (42P408)	205F'162 55A2564n	9KanA'3593 113AR1376n	-522- (43P989)	-600- (42P502)	-693- (43P802)
95Kan'222	cc190F310 f81F'488 d86F'262 86AR1061n	-291- (42P413)	-371- (42P596)	112Kan'53 112Kan'55	57AR847n 71AR79n	2KanA'341	f94Kan'60 107AR12n 107AR165n 154AR245n 154AR250n
-73- (43P308)	-213- (42P263)	2KanA'329 7KanA'738	5AR1084n 172AR27n	-516- (43P979)	71AR79n	2KanA'341	-687- (43P796)
-75- (43P306)	-217- (43P268)	-296- (42P592)	-377- (42P738)	9KanA'3593 113AR1376n	-525- (43P987)	-604- (42P588)	-693- (43P802)
s10KanAxviii 170Kan'481 d7KanA'734 7AR52n	a57Kan416 89F'580 24AR347n 160AR792n 160AR799n	s10KanAxviii	c141Kan'829 4KanA'310 j361F2d'847 148AR979n	113AR1376n	191Kan'115 f8KanA'2702 9KanA'24 1948JCB49	s10KanAxviii 74Kan'573 88Kan'214 d120Kan'716 11JBK302	f5KanA'192
-82- (43P304)	-232- (43P787)	-301- (43P100)	-386- (42P741)	-516- (43P979)	-522- (43P989)	-611- (42P590)	-704- (43P792)
135Kan'781 f3KanA'461 4KanA'361 f4KanA'432 69AR899n 44A2360n	s10KanAxviii 21Wsb181	-305- (43P94)	s10KanAxviii f8KanA'459	9KanA'3593 113AR1376n	57AR847n 71AR79n	s10KanAxviii 74Kan'573 88Kan'214 d120Kan'716 11JBK302	57Kan227
				-525- (43P987)	71AR79n	-617- (42P501)	-706- (43P1143)
				-460- (43P93)	71AR79n	f5KanA'203 f6KanA'285	r57Kan328 e209Kan57
				-464- (43P91)	71AR79n	-621- (42P937)	-711- (43P1138)
				-471- (43P87)	71AR79n	21KLR412 56A21003n	-714- (43P1144)
				-473- (43P89)	71AR79n		10KanA133 86AR1229n

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<p>-470- (44Kan342) 58P2282 65P1679 75P276 123P1764 f123P2764 127P16 127P27 f144P2231 233P2510</p> <p>-474- (44Kan304) j28P1994 63P195 f70P1587 158P118</p> <p>-475- (44Kan325)</p> <p>-476- (44Kan270) 136P219</p> <p>-477- Case 1 (44Kan277) 24P478 24P1101 156P2723</p> <p>-477- Case 2 (44Kan367) (21AS289) 34P2400 45P2956 46P2717 52P2703 104P1560 105P136 f116P1900 f133P1853 198P2947 222P1131 232P11066 263P2779 268P1822 278P150 167P2d1642 194P2d1513 406F2d21216</p> <p>-478- (44Kan262) cc24P480 50P2970 83P2d2626</p> <p>-480- (44Kan268) cc24P478 363FS1127</p> <p>-481- (44Kan247) f240P1406 215P2d193 698P2d2845</p>	<p>-484- (44Kan231)</p> <p>-486- (44Kan214)</p> <p>-492- (44Kan237) (21AS274) 35P1807 f77P199 d78P1835 189P1961 220P1515 245P1736 245P1739 257P1956 276P173 193P2d1644 j193P2d1648 f171F1973 e10F2d1512</p> <p>-496- (44Kan374)</p> <p>-497- (44Kan384) f39P1701 96P1347 140P2835 223P310 52P2d1195 92F1S198</p> <p>-500- (44Kan394) 28P718 f29P1086 30P1109 31P1699 40P1932 46P1971 48P1567 49P179 49P1436 63P1462 80P1936 e122P112 253P243 73P2d11104</p> <p>-944- s44Kan754 s26P51 j162Kan151 j175P2d1145 111.R1201n 111.R1211n</p> <p>-946- (44Kan431) (21AS292) (11LRA805) f106P1280 132P1994 149P1405 10P2d1891 q10P2d1892 214F1977</p>	<p>-947- (44Kan487)</p> <p>-948- (44Kan435) (21AS296) (91 RA606) 35P1792</p> <p>-949- (44Kan489) 27P1134 f88P1884 165P2d1238 217P2d11075</p> <p>-950- (44Kan447)</p> <p>-951- (44Kan450)</p> <p>-952- (44Kan420) s20P275 s22P721 138P3583 25P2d1584 81P2d246 239P2d1952 239P2d1952 255P2d2663 255P2d2663 422P2d1898</p> <p>-953- Case 1 (44Kan429) 27P2818 32P2926 f41P2981 73P1905 f105P248 4FS251</p> <p>-953- Case 2 (44Kan427) cc24P954 f29P1559 f141P1175</p> <p>-954- Case 1 (44Kan428) cc24P953</p> <p>-954- Case 2 (44Kan540)</p> <p>-955- (44Kan528) 37P1176 f86P1161 160P1582 f237P1878</p> <p>-957- Case 1 (44Kan497) f26P116</p>	<p>-957- Case 2 (44Kan499) 252P2469</p> <p>-958- (44Kan472) 40P1283</p> <p>-960- (44Kan523) 44P247 70P2597 124P1533</p> <p>-962- (44Kan481) cc9P466 d103P1992 108P1110</p> <p>-964- (44Kan423) f24P21114 26P21023 43P1782 26P2d2267 26P2d2267 e188P2d2644</p> <p>-965- (44Kan439) cc24P966</p> <p>-966- (44Kan442) cc24P965</p> <p>-968- (44Kan533) 83F1966</p> <p>-969- (44Kan612) f37P2107 f45P2576 70P2360 f86P2159 f93P2156 148P2d2736</p> <p>-971- (44Kan477) f27P1130 41P2210 51P1585 67P1449 98P2382 113P1411 d182P2551 65P2d1279 87P2d1540</p> <p>-973- (44Kan452) 24P1976 26P1497 38P1301 14P2d1731</p> <p>-975- (44Kan459) f26P1497 38P1301 44P1602 128P1383</p>	<p>f204P1730 14P2d1731 70P2d114</p> <p>-977- (44Kan491) cc49P332 cc51P281 26P2706 86P2d547 260F1627</p> <p>-979- (44Kan465) (21AS300) s25P580 30P1182 j147P1128 f180P2267 d368P2d1315 d51F1427</p> <p>-981- (44Kan543) cc24P983</p> <p>-983- (44Kan549) (10LRA537) cc24P981 f26P2681 31P1058 46P142 181P1575 f219P1285 220P2515 314P2d1322 314P2d1325 535P2d1460</p> <p>-986- (44Kan572) 26P1024 29P2703 34P1042 37P1008 249P2618 263P21052 216P2d1022 237P2d248 417P2d1280 e156US2105 e39I.E2362 e155C2294</p> <p>-1088- (44Kan633) cc19P793 cc24P1089 28P1184 37P1980</p> <p>-1089- Case 1 (44Kan636) cc19P793 cc24P1088 cc24P1089</p> <p>-1089- Case 2 (44Kan636) cc19P793 cc24P1088 cc24P1089</p>	<p>-1097- (44Kan694) f25P1070 48P119</p> <p>-1098- Case 1 (44Kan538) 35P11116 43P1847 e179P1974</p> <p>-1098- Case 2 (44Kan666) 26P135 f73P157</p> <p>-1099- (44Kan637) 31P1063 39P1701 61P1818</p> <p>-1100- (44Kan681) f90P1285</p> <p>-1101- (44Kan586) f39P1014 44P1632 44P1905 f44P1995 f45P1582 47P1627 d49P1113 60P2822 69P1340 70P1639 70P2884 72P1774 f75P3470 f80P1940 f83P1200 f83P1987 f84P11027 85P2823 88P1532 f94P11003 103P191 j121P11108 137P1979 138P1622 146P1338 192P1746 274P2206 12P2d3718 252P2d1856 263P2d263</p> <p>-1104- (44Kan676) 30P1458 109P1686</p> <p>-1105- (44Kan562) f78P1815</p> <p>-1106- (44Kan594) 27P2d1241</p>	<p>-1107- (44Kan653) f28P1983 48P1855 f64P1980 67P1530 f83P1207 94P1274 101P1649 144P1999 j171P1783 f180P1782 f233P11014</p> <p>-1108- (44Kan570) d240P1582</p> <p>-1109- (44Kan558) f26P138 112P1623 190P1762 270P2d1254</p> <p>-1110- (44Kan577) 42P1376 57P1549 j60P11081 d74P1598 92P1612 197P1881 215P1452 242P1459</p> <p>-1111- (44Kan688) f49P1339 55P1853 57P1122 f89F1645 f94F1612 f97F1301 125F1886 132F1731 140F1401</p> <p>-1113- (44Kan607) (10LRA520) 37P1172 f41P1956 50P1105 f51P1808 53P1788 54P16 55P1511 58P1558 75P1026 109P1186 153P1549 162P1309 75P2d1243 75P2d1854 98P2d1426 498P2d113</p> <p>-1114- (44Kan683) 38P1491 54P1670 72P1573 83P1203 125P177 234P166</p>	<p>287P1272</p> <p>-1116- (44Kan660) 41P272 146P1190</p> <p>-1118- r44Kan618 r26P476 88Kan1134 127P1609 10.A14n 10.B153n 10.B108n</p> <p>Vol. 25 ←</p> <p>-33- (44Kan514) f28P205 f30P2521 f30P1522 39P1821 f85P1294 f91P183 154P1016 180P2d1318 414P2d264 466P2d1316 486P2d11393 528P2d1225 612P2d1240 j217US1404 j54LE1814 j30SC1564</p> <p>-36- (44Kan596) (10LRA308) 26P1481 32P3818 48P574 d54P2918 65P214 f116P1219 10P2d1079 83P2d1652 340P2d1882 415P2d2282 573P2d1051 f196F1581 f35BRW286</p> <p>-40- (44Kan628) (10LRA314) 67P1851 f103P1103 f104P11067 183F2d1154</p> <p>-42- (44Kan656) 241P694 266P745 222F2856 231F892</p> <p>-43- (44Kan639) 83P1126</p>
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Fellow Kansans. voters and taxpayers:

My name is Christian Jacobs and I am a senior at Blue Valley North High School in Overland Park.

I'm not here to talk about numbers. I am here to show you the effects the governor's proposal will have on education.

I have attended the Learning Center Program through my whole academic career. The Learning Center serves as a motivating, organizing, test-taking resource room. My father and I along with other educators have fought many battles to maintain the Learning Center Program in all the schools I have attended: not only having them but making sure that they have the proper faculty and resources. If this program is not maintained, many students such as myself would neither have graduated nor achieve high academic standing. I shudder at the thought of what my life would be like today without the Learning Center. Would I be speaking to you today if there weren't a Resource Center to help me deal with daily situations in school?

I have the ability and the intellect to be successful in High School and College. But, because I have dyslexia, I need the support this program gives me. Some of the extra help I receive from this program is the use of computers, extra time, using teachers as a resource, and cooperative learning. Because of this program I will graduate in May with a 3.3 and a rank of _____ in my class. I am a successful, taxpaying businessman who started my own lawn service company. Although successful, I plan to attend college in the fall. Much of my self-esteem and

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success I attribute to the many teachers who have given me support through this program.

By funding this program now, you will not have to pay later. Students who could have a positive effect on society would not be able to without the support this program gives them. It would be like a slap in the face if when I leave High School the Resource Center was no longer the effective center that it is today. Because. if not funded it will disintegrate. What will you tell all those hard working students????????????????????????????????????

Thank you.

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SCHOOL FINANCE TESTIMONY

By Dr. Jim Yonally

Shawnee Mission Public Schools

Mister Chairman, and members of the committee, my name is Jim Yonally and I am pleased to speak today representing the Board of Education of the Shawnee Mission School District. We must oppose the passage of House Bill 2892, and urge you to look for an alternative solution to the difficult problem of financing education in Kansas.

First, we would like to discuss why we are the legislature is considering making a significant change in our current method of funding education in Kansas. The position of Judge Bullock has been well-documented and I see no reason to repeat it. It obvious to me, as I'm sure it is to you, that his major concern is "equal educational opportunity" and further, that he equates that to the amount of money being spent on each child's education. Less spending suggests less opportunity, more spending greater opportunity. The approach taken in HB 2892, however, seems to be using a bulldozer to solve a problem that could be solved better by using a shovel.

For example, under HB 2892, 159 districts (well over half) would be able to increase their budgets, from '91-'92 to '92-'93 by over 10%. 46 of those would have increases of more than 20%, and one district could increase by 56%. At the same time, 30 districts would have to reduce their budgets over what they are now spending, unless allowed by the voters of their districts to replace lost budget authority. You might say, "Well, isn't that what is supposed to happen? High spending districts should reduce their budgets, while low spending districts increase? Isn't that how we "close the gap" and bring district spending closer together?"

If that were the case, you would expect high spending districts, next year, under the provisions of HB 2892, to have budget reductions, and low spending districts to have budget increases? THAT IS NOT THE WAY IT IS. If you would turn to the printout which accompanies my testimony, let's first look at the low spending districts next year. If this plan is working the way it's supporters say it will, you would expect that these districts should be getting increases, but 4 out of the bottom 10 would actually have decreases in their budget per pupil, unless they were able to exercise one, or in some cases it would be necessary to use both, of the local options. And, as you can see, the six that have increases have only small ones. Now, if you would turn to the back page, let's look at the high-spending districts, next year, under 2892. Again, -if this plan is supposed to be "equalizing" budgets per pupil you would expect these districts to be having decreases in their BPP. As you can see, in the bottom 10, only 4 would have decreases, while 6 would actually have more BPP next year than this year. I would like to call your attention, particularly,

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to Mullinville and Prairie Heights, because they have the exact same enrollment, 100 students.

Let's look at these budgets per pupil from another angle. Judge Bullock said in his letter that there could be differences in budgets as long as there was "a rational educational explanation". I thought Chairman Harder asked a very important question on Monday, how did they arrive at the figure of \$3,625 as a "basic" budget per pupil. Was it based on some "rational educational explanation"? Was some study done to determine that this is the appropriate level for a "basic" education. In an earlier version, \$3,675 must have been assumed to be the appropriate amount, and I believe that the governor's original plan used \$3,656. Under 2892, the median for districts under 100 enrollment is \$7,337. Did someone do some analysis of the situation and determine, using a "rational explanation" that this is the proper amount for them to be spending? We would suggest to you that all of these numbers were arrived at based on political considerations, not educational ones.

Let's look at still another part of this "budget per pupil" puzzle, the local option provision of HB 2892. One member of the House Education Committee called 2892 "an historic change" in the way we finance education. We certainly agree with that. Never, under the SDEA, has the legislature approved negative budget limitations. That is, districts have never been forced to subject their budgets to voter approval, just to maintain their current spending. Furthermore, under the SDEA, once budget authority was approved by voters, it became a part of the base, and it wasn't necessary to go back to the voters, year after year. This change, we agree, is "history-making" but we would question if it's the kind of history for which we would like to be remembered. Furthermore, if we are concerned about bringing budgets closer together, isn't 10% (the first option) of a large budget still more than 10% of a small budget per pupil. Aren't we laying the groundwork for a similar condition as the one we now face?

I would like to spend a few minutes talking about the unknowns in this proposed plan. I understand from talking with some of the people involved that the legislature spent three years, including a couple of interims, studying different factors before arriving at the current SDEA. Also, we have lived with it for almost two decades. We know how it works. We have, through the years, corrected some, NOT ALL, of it's problems. However, the primary reason it isn't "working" today is because the legislature hasn't funded it properly, through the years. How long have we spent studying the provisions of HB 2892? Maybe four months, five would be generous.

When 2892 was unveiled, some people noted that it would require approximately 50 districts to reduce their budgets. So, a "local option" provision of 10% was included. Then, it was pointed out that some districts still would not be able to maintain their current level of spending so a second option was added. Some of us called attention to the fact that the original plan deprived districts of interest revenue by

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bringing the property tax collections into the state. So, another revision, local property taxes would stay in the local district up to the limits of their budget. Problem - we can't budget exactly "to the penny" - solution - we'll allow a 1% "emergency" fund. Problem - districts will spend up cash reserves to avoid losing the money to the state - solution - we'll allow, for one year, for these moneys to be transferred to the capital outlay fund. Yesterday, Chairman Bowden said there are still problems with this plan, and it needs further amendments to make it work.

What other potential problems have we overlooked in this mad dash to adopt an untried, untested plan? One problem that we believe could be a trouble is the increase in costs over which the district has no control. For example, if health insurance premiums increase (as they are), or workers comp insurance premiums increase (as they are proposed to do), what happens? For the sake of the new members of the committee, under the present formula, the district may automatically increase their budget to compensate for these increases. The same provision applies to the cost of utilities and social security, if the cost goes up more than your budget, you get an increase in budget authority. Under 2892, there is no similar provision, the district simply must "eat" the increase. That is, the money must come out of other parts of the budget, be that teacher's salaries, number of teachers, supplies, books, repairs, etc.

A few years ago, a railroad closed their operation in Kansas. It caused several districts to experience drastic drops in enrollment. The current formula was adapted to ease this situation. Again, I find no similar provision in 2892. What happens if there is an "across the board" reduction in state funding?

Why are we spending \$452 million on a plan that may have further flaws that we haven't discovered in the short time we've had to consider it? Another not-so-small concern. The money raised by the tax portion of this bill is not ear-marked for education. What happens if, during the negotiating period that is a necessary part of this process, some of that money gets diverted to some other important function of state government. Does the printout you have before you still look as good?

We believe there is a better alternative. That is, the current formula that we know, but may not love. Certainly, budgets per pupil need to be brought closer together. Clearly, property taxes need to be lowered and also brought closer together. That can be accomplished without launching our ship into virtually unknown waters.

One final suggestion, I urge you to act with all due haste. Many legislators, and others interested in education in Kansas, have said that we wouldn't be in this fix if the governor hadn't vetoed the tax bill last session, or if the legislature had overridden that veto. That provision contained \$55 million for elementary and secondary education. So, according to some people, we have a problem that could have

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been avoided, last year, by \$55 million. The governor proposed her solution, which would have required \$217 million. Then, some house members decided that we needed \$321 million dollars to solve this \$55 million problem. Then, just a few weeks ago, some of these same people decided that we could REALLY fix things with only \$452 million. So, we have gone from \$55 million in 1991, to \$217, then \$321, and now \$452. If you don't reach a decision soon, as the saying goes, pretty soon we'll be talking about some real money.

Thank you for your time. You do have a monumental task before you and we appreciate your diligence. I would be happy to try to answer any questions.

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1992-93 ESTIMATED OPERATING BUDGET PER PUPIL

Low to High

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MODEL 4: 93625 X WEIGHTED ENROLLMENT / EST 9-20-92 ENROLLMENT

WEIGHTING FROM COMPUTER PRINTOUT L9278 INCLUDES: LOW ENROLLMENT, AT-RISK, TRANSPORTATION, VOC. EDUC, AND BILINGUAL

DISTRICT NAME	FTE	1991		L9278		INCR/DECR (4 - 3)	1991 GEN. FUND HILL RATE	PLAN BASIC HILL RATE	COMPARISON (105X # 3) - (4) # 1	HILL EQUIV
		EST. FTE 9-20-92	ASSESSED VALUATION PER PUPIL	1991-92 BUDGET PER PUPIL	OPERATING BUDGET PER PUPIL					
OLATHE	D0233	15,240.0	31,849	4,382.52	3,696.10	-686.42	93.68	29.00	13,800,521	29.56
LEAVENWORTH	D0453	4,225.0	23,082	3,354.31	3,702.48	348.17	72.49	29.00	0	0.00
SALINA	D0305	7,180.0	24,690	3,408.86	3,728.25	319.39	75.96	29.00	0	0.00
HITCHCOCK PUBL	D0308	5,050.0	26,597	3,526.81	3,734.25	207.44	80.69	29.00	0	0.00
LAURENCE	D0497	8,760.0	37,176	3,623.72	3,734.37	110.65	69.48	29.00	617,895	1.95
SHAWNEE HIBBION	D0512	30,180.0	52,206	4,123.40	3,736.57	-388.83	37.95	29.00	17,960,118	11.60
TOPEKA PUBLIC S	D0501	14,325.0	31,803	3,749.66	3,739.05	-10.61	83.78	29.00	2,837,682	6.30
OTTAWA	D0290	2,310.0	19,249	3,230.16	3,747.25	517.09	56.92	29.00	0	0.00
DERBY	D0260	6,225.0	22,585	3,537.12	3,750.84	213.72	74.58	29.00	0	0.00
BLUE VALLEY	D0229	10,250.0	59,905	4,831.61	3,732.00	-1,079.61	62.00	29.00	13,542,203	23.24
NEWTON	D0373	3,350.0	20,124	3,477.61	3,756.26	278.65	80.18	29.00	0	0.00
MCPHERSON	D0418	2,645.0	30,831	3,441.96	3,756.71	314.75	74.08	29.00	0	0.00
HAYS	D0489	3,420.0	30,689	3,702.89	3,759.82	56.93	78.78	29.00	438,494	4.16
GREAT BEND	D0428	3,370.0	25,500	3,206.52	3,762.36	555.84	66.56	29.00	0	0.00
TURNER-KANSAS C	D0202	3,860.0	21,525	3,599.75	3,763.24	163.49	69.30	29.00	63,680	0.77
PITTSBURG	D0250	2,925.0	19,054	3,105.98	3,765.29	659.31	64.44	29.00	0	0.00
WELLINGTON	D0353	2,025.0	19,247	3,387.22	3,769.28	382.06	74.80	29.00	0	0.00
AUGUSTA	D0402	2,126.6	16,647	3,232.23	3,776.37	544.14	77.76	29.00	0	0.00
EL DORADO	D0490	2,250.0	24,946	3,321.06	3,776.77	455.71	64.93	29.00	0	0.00
LIBERAL	D0480	3,550.0	31,773	3,266.41	3,779.19	512.78	60.80	29.00	0	0.00
JUNCTION CITY	D0475	7,362.0	10,971	3,191.04	3,787.83	596.79	54.41	29.00	0	0.00
BEAMAN	D0345	3,315.0	32,588	3,380.83	3,791.00	410.17	72.68	29.00	0	0.00
CHANNITE PUBLIC	D0413	2,000.0	17,249	3,439.99	3,794.65	354.66	75.11	29.00	0	0.00
BONNER SPRINGS	D0204	2,160.0	23,524	3,710.33	3,795.01	84.68	75.05	29.00	217,807	4.40
MANHATTAN	D0383	6,535.0	25,630	3,385.15	3,795.90	410.75	74.17	29.00	0	0.00
WINFIELD	D0465	2,455.0	23,128	3,536.78	3,801.75	264.97	76.76	29.00	0	0.00
INDEPENDENCE	D0446	2,350.0	24,761	3,363.99	3,807.02	443.03	63.17	29.00	0	0.00
EMPHORIA	D0253	4,810.0	19,746	3,252.93	3,812.51	559.58	67.11	29.00	0	0.00
VALLEY CENTER P	D0262	2,135.0	18,480	3,332.01	3,819.92	487.91	74.24	29.00	0	0.00
KANSAS CITY	D0500	21,119.0	20,000	3,806.34	3,820.63	14.29	57.27	29.00	3,717,514	8.89
DODGE CITY	D0443	4,320.0	28,504	3,270.46	3,826.05	555.59	75.27	29.00	0	0.00
HAYSVILLE	D0261	3,502.0	16,222	3,415.10	3,828.30	413.20	76.54	29.00	0	0.00
WICHITA	D0259	46,500.0	32,917	3,764.87	3,837.54	72.67	85.47	29.00	5,374,168	3.58
AUBURN WASHBURN	D0437	4,550.0	36,890	3,183.43	3,843.30	659.87	62.30	29.00	0	0.00
GARDEN CITY	D0457	6,619.6	25,161	3,111.84	3,845.69	733.85	65.94	29.00	0	0.00
FORT SCOTT	D0234	2,030.0	19,205	3,178.41	3,846.07	667.66	68.56	29.00	0	0.00
COFFEYVILLE	D0445	2,640.0	22,725	3,592.50	3,850.46	257.96	64.06	29.00	0	0.00
ARKANSAS CITY	D0470	3,050.0	20,100	3,427.61	3,853.08	425.47	70.89	29.00	0	0.00
GODDARD	D0265	2,240.0	22,952	3,688.33	3,854.96	166.63	79.32	29.00	39,842	0.82
HAIZE	D0266	3,170.0	17,444	4,044.89	3,879.09	-165.80	60.97	29.00	1,166,701	23.86
PARSONS	D0503	1,980.0	15,568	3,516.73	3,885.16	368.43	97.69	29.00	0	0.00
BUHLER	D0313	2,144.5	25,459	3,532.70	3,895.63	342.93	67.96	29.00	0	0.00
MULVANE	D0263	1,975.0	12,853	2,720.28	3,900.32	1,180.04	51.06	29.00	0	0.00
FT LEAVENWORTH	D0207	1,850.0	382	0.00	3,900.70	3,900.70	25.00	29.00	0	0.00
SHAWNEE HEIGHTS	D0450	3,354.5	23,473	3,300.90	3,915.15	614.25	65.67	29.00	0	0.00
IOLA	D0257	1,790.0	15,159	3,488.74	4,080.66	591.92	71.03	29.00	0	0.00

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3/25/92
EDUC

DISTRICT NAME	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	EST. FTE 9-20-92	1991 ASSESSED VALUATION PER PUPIL	1991-92 BUDGET PER PUPIL	19278 OPERATING BUDGET PER PUPIL	INCR/DECR (4 - 3)	1991 GEN. FUND MILL RATE	PLAN BASIC MILL RATE	COMPARISON (105X * 3) - (4) * 1	MILL EQUIV
LANSING D0449	1,705.0	17,015	3,962.78	4,107.93	145.15	52.46	29.00	94,585	3.25
ANDOVER D0385	1,749.0	23,906	3,609.70	4,163.05	553.35	78.26	29.00	0	0.00
ATCHISON PUBLIC D0409	1,685.8	22,112	3,639.84	4,168.60	528.76	63.00	29.00	0	0.00
DESOTO D0232	1,848.5	26,730	3,783.09	4,185.86	402.77	61.29	29.00	0	0.00
ULYSSES D0214	1,700.0	137,497	4,565.32	4,228.88	-336.44	31.19	29.00	960,000	4.16
GARDNER-EDGERT D0231	1,688.9	26,230	3,810.47	4,256.03	445.56	69.26	29.00	0	0.00
CLAY CENTER D0379	1,625.0	22,010	3,522.84	4,330.59	807.75	51.31	29.00	0	0.00
PAOLA D0368	1,670.0	23,542	3,951.86	4,334.81	382.95	74.51	29.00	0	0.00
LABETTE COUNTY D0506	1,657.0	16,253	3,644.31	4,420.23	775.72	58.64	29.00	0	0.00
ABILENE D0435	1,430.0	21,449	3,835.30	4,500.07	664.77	68.13	29.00	0	0.00
ROSE HILL PUBLI D0394	1,524.0	13,473	4,075.65	4,514.36	438.71	80.47	29.00	0	0.00
TONGANOXIE D0464	1,500.0	18,334	4,215.46	4,565.57	350.11	67.64	29.00	0	0.00
RENNICK D0267	1,460.0	26,792	4,210.49	4,602.26	391.77	75.32	29.00	0	0.00
PRATT D0382	1,340.0	29,900	3,704.69	4,613.49	908.80	61.60	29.00	0	0.00
NICKERSON D0309	1,400.0	26,322	4,070.05	4,660.46	590.41	63.42	29.00	0	0.00
COLBY PUBLIC SC D0315	1,313.0	30,639	4,117.43	4,695.94	578.51	47.96	29.00	0	0.00
CONCORDIA D0333	1,355.0	20,994	4,017.18	4,698.86	681.68	73.79	29.00	0	0.00
WAMEGO D0320	1,356.0	18,403	4,139.38	4,705.82	566.44	50.33	29.00	0	0.00
BASEHOR-LINWOOD D0458	1,423.0	20,617	4,208.02	4,716.07	508.05	66.93	29.00	0	0.00
CIRCLE D0375	1,294.0	40,875	4,165.18	4,764.33	599.15	48.42	29.00	0	0.00
SANTA FE TRAIL D0434	1,249.0	15,460	4,229.49	4,795.80	566.31	62.93	29.00	0	0.00
COLUMBUS D0493	1,305.0	25,115	4,010.73	4,818.06	807.33	53.36	29.00	0	0.00
SPRING HILL D0230	1,250.0	20,116	4,249.93	4,842.42	592.49	80.33	29.00	0	0.00
FT LARNED D0495	1,150.8	33,900	4,228.49	4,899.17	670.68	59.56	29.00	0	0.00
OSAWATOMIE D0367	1,126.0	16,217	4,250.76	4,914.35	663.59	57.29	29.00	0	0.00
PIPER-KANSAS CI D0203	1,180.0	33,059	4,507.98	4,920.48	412.50	51.04	29.00	0	0.00
HAVEN PUBLIC SC D0312	1,216.0	29,203	4,139.72	4,933.70	793.98	54.34	29.00	0	0.00
GOODLAND D0352	1,170.0	36,685	4,326.33	4,933.72	607.39	55.96	29.00	0	0.00
RUSSELL COUNTY D0407	1,189.0	48,670	5,029.03	4,950.61	-78.42	69.11	29.00	392,217	6.94
HTAWATHA D0415	1,215.0	25,434	4,209.25	4,956.55	747.30	62.68	29.00	0	0.00
CHAPMAN D0473	1,240.0	27,887	4,048.61	4,973.56	924.95	64.33	29.00	0	0.00
KINGMAN D0331	1,118.0	47,076	4,302.14	4,994.91	692.77	60.35	29.00	0	0.00
GIRARD D0248	1,103.0	18,030	3,970.47	5,005.66	1,035.19	38.57	29.00	0	0.00
BALDWIN CITY D0348	1,097.5	21,077	4,450.25	5,022.48	572.23	68.55	29.00	0	0.00
ERIE-ST PAUL D0101	1,135.0	18,681	4,244.87	5,028.69	783.82	59.96	29.00	0	0.00
LOUISBURG D0416	1,117.0	23,056	4,392.38	5,039.95	647.57	57.98	29.00	0	0.00
SABETHA D0441	1,074.5	22,446	4,295.02	5,068.25	773.23	56.72	29.00	0	0.00
SCOTT COUNTY D0466	1,094.0	39,703	4,533.34	5,070.03	536.69	56.72	29.00	0	0.00
MORRIS COUNTY D0417	1,071.0	26,763	4,207.52	5,096.32	888.80	47.88	29.00	0	0.00
KAW VALLEY D0321	1,030.0	215,780	5,327.16	5,102.80	-224.36	23.94	29.00	505,440	2.31
HUGOTON PUBLIC D0210	1,005.0	241,459	5,062.19	5,135.96	73.77	18.36	29.00	180,236	0.75
GARNETT D0365	1,040.0	29,267	4,239.54	5,136.70	897.16	54.25	29.00	0	0.00
ANTHONY-HARPER D0361	1,080.0	36,071	4,342.45	5,137.77	795.32	61.42	29.00	0	0.00
HOLDEN D0336	1,014.0	16,856	4,539.19	5,149.72	610.53	58.63	29.00	0	0.00
BURLINGTON D0244	963.5	561,181	5,108.78	5,166.05	57.27	9.12	29.00	190,936	0.37
CLEARWATER D0264	1,020.0	26,851	3,992.26	5,168.82	1,176.56	60.54	29.00	0	0.00
EUDORA D0491	850.0	16,077	4,785.91	5,180.76	394.85	46.18	29.00	0	0.00
MARTYSVILLE D0364	980.0	28,367	4,044.10	5,182.64	1,138.54	55.21	29.00	0	0.00

*COL 4: \$3625 X WEIGHTED ENROLLMENT / EST 9-20-92 ENROLLMENT

WEIGHTING FROM COMPUTER PRINTOUT 19278 INCLUDES: LOW ENROLLMENT, AT-RISK, TRANSPORTATION, VOC. EDUC. AND BILINGUAL

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3/25/92
EDUC

DISTRICT NAME		(1) EST. FTE 9-20-92	(2) 1991 ASSESSED VALIATION PER PUPIL	(3) 1991-92 BUDGET PER PUPIL	(4) L9278 OPERATING BUDGET PER PUPIL	(5) INCR/ DECR (4 - 3)	(6) 1991 GEN. FUND HILL RATE	(7) PLAN BASIC HILL RATE	(8) COMPARISON (105X * 3) - (4) * 1	(9) MILL EQUIV
BAXTER SPRINGS	D0508	860.0	14,917	4,803.17	5,184.17	381.00	43.28	29.00	0	0.00
LYONS	D0405	848.5	24,335	4,600.31	5,200.60	600.29	61.54	29.00	0	0.00
PERRY PUBLIC SC	D0343	940.0	22,165	4,324.91	5,297.13	772.22	59.68	29.00	0	0.00
HESSTON	D0460	770.0	26,492	4,768.13	5,302.86	534.73	68.84	29.00	0	0.00
GALENA	D0499	740.0	8,054	4,602.91	5,314.54	711.63	47.96	29.00	0	0.00
LINDSBORG	D0400	855.0	32,763	4,562.40	5,328.96	766.56	67.11	29.00	0	0.00
HOTISINGTON	D0431	770.0	30,327	4,274.59	5,334.87	1,060.28	51.05	29.00	0	0.00
FREDONIA	D0484	896.0	25,456	4,723.31	5,348.49	625.18	63.42	29.00	0	0.00
BELOIT	D0273	780.0	31,223	4,804.61	5,386.84	582.23	55.88	29.00	0	0.00
MORTON COMMUNIT	D0211	742.0	20,541	4,750.92	5,388.16	637.24	57.99	29.00	0	0.00
DOUGLASS PUBLIC	D0396	775.0	14,241	4,760.59	5,408.97	648.38	55.21	29.00	0	0.00
BELLE PLAINE	D0357	750.0	14,790	4,522.21	5,409.47	887.26	68.21	29.00	0	0.00
CANEY VALLEY	D0436	770.0	19,299	4,875.60	5,410.67	535.07	47.86	29.00	0	0.00
HALSTEAD	D0440	775.0	24,168	4,936.82	5,411.77	474.95	70.01	29.00	0	0.00
EUREKA	D0389	795.0	27,724	4,928.54	5,417.44	488.90	59.58	29.00	0	0.00
NEEDSHA	D0461	710.0	18,648	4,899.79	5,446.69	546.90	38.27	29.00	0	0.00
BARBER COUNTY N	D0254	750.0	47,953	4,395.86	5,457.32	1,061.46	48.34	29.00	0	0.00
HOLCOMB	D0363	700.0	149,673	5,392.72	5,465.98	73.26	27.26	29.00	137,463	1.19
PHILLIPSBURG	D0325	682.0	31,774	4,918.31	5,481.09	562.78	65.97	29.00	0	0.00
CHEROKEE	D0247	793.5	20,056	4,751.51	5,483.87	732.36	56.20	29.00	0	0.00
PRAIRIE VIEW	D0362	900.0	134,616	5,049.05	5,490.26	441.21	37.14	29.00	0	0.00
LAKIN	D0215	710.0	193,780	6,556.05	5,491.11	-1,064.94	29.84	29.00	988,847	7.40
WELLSVILLE	D0289	714.0	20,958	4,814.91	5,493.86	678.95	67.45	29.00	0	0.00
RIVERTON	D0404	718.0	22,433	4,581.47	5,497.58	916.11	37.95	29.00	0	0.00
WEST FRANKLIN	D0287	796.0	21,272	4,571.35	5,497.61	926.26	56.10	29.00	0	0.00
HAYETTA	D0337	817.5	12,620	4,551.28	5,502.91	951.63	42.99	29.00	0	0.00
ELLSWORTH	D0327	775.0	23,774	4,838.72	5,508.60	669.88	69.81	29.00	0	0.00
JEFFERSON WEST	D0340	756.0	18,539	4,794.85	5,513.74	718.89	53.48	29.00	0	0.00
LEON	D0205	790.0	22,402	3,925.96	5,523.31	1,597.35	47.24	29.00	0	0.00
SILVER LAKE	D0372	609.5	18,213	4,807.94	5,536.53	728.59	57.14	29.00	0	0.00
CERRYVALE	D0447	612.5	15,311	5,206.02	5,553.80	347.78	36.72	29.00	0	0.00
HERRINGTON	D0487	575.0	16,657	4,353.25	5,557.28	1,204.03	71.22	29.00	0	0.00
OSAGE CITY	D0420	600.0	22,637	5,108.60	5,586.73	478.13	41.76	29.00	0	0.00
NORTH LYON COUN	D0231	740.0	24,287	4,375.21	5,586.91	1,211.70	55.10	29.00	0	0.00
ELKHART	D0218	553.0	90,908	5,409.97	5,590.89	180.92	39.89	29.00	49,537	1.00
HUMBOLDT	D0258	610.0	23,957	4,531.61	5,591.41	1,059.80	60.43	29.00	0	0.00
ATCHISON CO COM	D0377	768.5	26,537	5,150.84	5,611.79	460.95	63.99	29.00	0	0.00
BELLEVILLE	D0427	659.0	29,592	4,936.22	5,612.42	676.20	65.35	29.00	0	0.00
SOUTH BROWN COU	D0430	690.0	19,944	4,532.48	5,618.22	1,085.74	57.71	29.00	0	0.00
DURHAM-HILLSBOR	D0410	620.4	29,101	5,117.82	5,619.22	501.40	54.97	29.00	0	0.00
ELLMOOD PUBLI	D0355	575.0	37,359	5,113.30	5,624.74	509.44	47.78	29.00	0	0.00
OSKALOOSA PUBLI	D0341	630.0	16,609	4,382.30	5,625.66	1,243.36	61.65	29.00	0	0.00
CHENEY	D0268	603.0	23,259	4,156.63	5,631.67	1,475.04	56.63	29.00	0	0.00
NORTH OTTAWA CO	D0239	678.0	29,112	4,325.52	5,633.72	1,308.20	48.95	29.00	0	0.00
OSBERLIN	D0294	652.0	35,578	4,503.11	5,634.32	1,131.21	50.27	29.00	0	0.00
FRONTENAC PUBLI	D0249	480.0	18,057	4,691.42	5,635.36	943.94	40.10	29.00	0	0.00
POTTAMATONIE ME	D0323	660.0	16,217	4,475.14	5,644.02	1,168.88	74.52	29.00	0	0.00
WACONDA	D0272	565.0	26,241	4,802.76	5,653.76	851.00	67.59	29.00	0	0.00

WCOL 4: 93625 X WEIGHTED ENROLLMENT / EST 9-20-92 ENROLLMENT

WEIGHTING FROM COMPUTER PRINTOUT L9278 INCLUDES: LOW ENROLLMENT, AT-RISK, TRANSPORTATION, VOC. EDUC, AND BILINGUAL

EDUC
3/25/92
11-8

DISTRICT NAME	EST. FTE 9-20-92	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
		1991 ASSESSED VALUATION PER PUPIL	1991-92 BUDGET PER PUPIL	L9278 OPERATING BUDGET PER PUPIL	INCR/DECR (4 - 3)	1991 GEN. FUND MILL RATE	PLAN BASIC MILL RATE	COMPARISON (105% * 3) - (4) * 1	MILL EQUIV	
HILL CITY D0281	523.5	42,332	5,369.39	5,673.97	304.58	50.41	29.00	0	0.00	
OSWEGO D0504	460.0	21,168	5,247.16	5,687.31	440.15	45.01	29.00	0	0.00	
EASTON D0449	615.0	22,028	4,544.18	5,689.78	1,145.60	57.47	29.00	0	0.00	
YATES CENTER D0366	600.0	31,742	3,874.09	5,696.08	1,821.99	43.38	29.00	0	0.00	
NORTHEAST D0246	570.0	15,201	4,152.80	5,707.15	1,554.35	49.27	29.00	0	0.00	
LEBO-MAVERLY D0243	525.0	24,010	4,348.21	5,707.48	1,359.27	46.50	29.00	0	0.00	
CINARRON-ENSIGN D0102	555.0	39,615	5,170.99	5,708.56	537.57	46.60	29.00	0	0.00	
SMITH CENTER D0237	645.0	32,619	4,735.11	5,709.52	974.41	73.70	29.00	0	0.00	
MAKENNEY D0208	602.0	40,832	4,826.54	5,710.28	883.74	49.77	29.00	0	0.00	
STERLING D0376	550.0	28,295	5,318.35	5,722.23	403.88	49.18	29.00	0	0.00	
PLAINVILLE D0270	470.0	59,544	5,407.59	5,735.99	328.40	47.51	29.00	0	0.00	
MATHENA D0406	510.0	13,490	4,942.85	5,736.74	793.89	39.51	29.00	0	0.00	
HILL CREEK VALL D0329	545.0	28,300	4,470.77	5,746.79	1,276.02	60.39	29.00	0	0.00	
VERMILLION D0380	620.0	26,826	4,805.48	5,749.72	944.24	47.98	29.00	0	0.00	
GEDGWICK PUBLIC D0439	400.0	17,129	5,608.15	5,753.78	145.63	50.40	29.00	53,911	7.98	
LORRAINE D0328	536.0	67,679	5,881.19	5,766.86	-114.33	73.40	29.00	218,897	6.05	
MARION D0408	585.0	26,135	4,846.35	5,772.74	926.39	51.35	29.00	0	0.00	
HOLDOUTH D0342	532.0	19,883	4,849.50	5,776.83	927.33	56.54	29.00	0	0.00	
WABAUNSEE EAST D0330	600.0	23,900	4,876.03	5,777.65	901.62	64.03	29.00	0	0.00	
LEDTI D0467	576.0	45,637	5,008.20	5,779.23	771.03	68.51	29.00	0	0.00	
RILEY COUNTY D0378	584.5	17,882	4,433.57	5,783.88	1,350.31	55.49	29.00	0	0.00	
SOUTHERN LYON C D0252	600.0	24,093	4,384.37	5,785.50	1,401.13	57.45	29.00	0	0.00	
STANTON COUNTY D0452	539.5	130,886	5,248.42	5,808.74	560.32	34.90	29.00	0	0.00	
VALLEY FALLS D0358	495.0	15,414	4,443.14	5,814.65	1,371.51	38.50	29.00	0	0.00	
OXFORD D0358	445.0	23,057	4,022.72	5,826.88	1,804.16	54.29	29.00	0	0.00	
HOUNDRIIDGE D0423	450.0	38,358	5,010.33	5,828.20	817.87	63.84	29.00	0	0.00	
TWIN VALLEY D0240	474.0	25,648	4,965.21	5,832.89	867.68	46.60	29.00	0	0.00	
TROY PUBLIC SCH D0429	405.0	14,333	4,520.07	5,834.91	1,314.84	39.70	29.00	0	0.00	
JAYHAWK D0346	540.0	28,468	4,966.18	5,840.28	874.10	52.72	29.00	0	0.00	
OAKLEY D0274	520.0	47,285	4,981.65	5,846.01	864.36	63.23	29.00	0	0.00	
CONWAY SPRINGS D0356	469.0	25,392	5,354.63	5,847.92	493.29	69.45	29.00	0	0.00	
LYNDON D0421	429.0	20,894	5,278.61	5,849.01	570.40	44.83	29.00	0	0.00	
RENINGTON-WHITE D0206	525.0	36,530	5,259.82	5,856.24	595.42	64.45	29.00	0	0.00	
INMAN D0448	450.0	31,090	4,990.33	5,856.39	866.06	52.50	29.00	0	0.00	
NESS CITY D0303	370.0	58,316	5,275.24	5,857.81	582.57	56.94	29.00	0	0.00	
PLEASANTON D0344	400.0	15,953	5,630.48	5,860.72	230.24	45.05	29.00	20,514	3.14	
HOXIE COMMUNITY D0412	500.0	41,223	4,708.62	5,861.63	1,153.01	55.25	29.00	0	0.00	
HEADE D0226	396.5	91,568	5,331.79	5,869.48	537.69	47.72	29.00	0	0.00	
SUBLETTIE D0374	495.0	99,332	5,265.01	5,869.57	604.56	39.83	29.00	0	0.00	
IDALL D0463	415.0	19,198	4,805.51	5,875.12	1,069.61	72.72	29.00	0	0.00	
CENTRAL HEIGHTS D0288	550.0	18,306	4,326.75	5,878.43	1,551.68	39.92	29.00	0	0.00	
CHASE COUNTY D0284	563.0	39,093	4,191.83	5,878.55	1,686.72	49.94	29.00	0	0.00	
WASHINGTON SCHD D0222	370.0	24,348	5,505.18	5,887.20	382.02	55.84	29.00	0	0.00	
OSBORNE COUNTY D0392	484.0	29,638	5,141.79	5,891.37	749.58	56.16	29.00	0	0.00	
ST JOHN-HUDSON D0350	453.5	57,667	5,086.64	5,891.93	905.29	50.93	29.00	0	0.00	
MEMAHA VALLEY S D0442	434.0	33,317	5,756.47	5,898.56	142.09	39.99	29.00	63,248	4.55	
ATWOOD D0318	483.0	33,335	5,133.52	5,903.57	768.05	70.98	29.00	0	0.00	
ELLI6 D0388	375.0	47,598	5,271.90	5,909.23	637.33	46.59	29.00	0	0.00	

COL 4: \$3625 X WEIGHTED ENROLLMENT / EST 9-20-92 ENROLLMENT
 WEIGHTING FROM COMPUTER PRINTOUT L9278 INCLUDES: LOW ENROLLMENT, AT-RISK, TRANSPORTATION, VOC. EDUC. AND BILINGUAL

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*COL 4: \$3625 X WEIGHTED ENROLLMENT / EST 9-20-92 ENROLLMENT

DISTRICT NAME	EST. FTE 9-20-92	1991		L9278		INCR/DELR (4 - 3)	1991		COMPARISON (100% * 3) - (4) * 1	HILL EQUIV
		ASSESSED VALUATION PER PUPIL	1991-92 BUDGET PER PUPIL	OPERATING BUDGET PER PUPIL	GEN. FUND HILL RATE		PLAN BASIC HILL RATE			
DIGHTON D0482	388.0	49,698	5,035.41	5,910.24	874.83	52.85	29.00	0	0.00	
BURLINGAME PUBL D0454	350.0	16,061	5,379.96	5,913.93	533.97	51.75	29.00	0	0.00	
SOUTHEAST OF BA D0306	586.0	51,889	5,325.69	5,914.44	588.75	42.11	29.00	0	0.00	
CHAULTAQUA COUN D0286	495.0	26,161	5,199.45	5,917.17	717.72	37.31	29.00	0	0.00	
KISHNET-FLAINS D0483	590.0	65,723	4,414.95	5,919.19	1,504.24	43.21	29.00	0	0.00	
JEFFERSON COUNT D0339	450.0	19,273	5,245.53	5,924.86	679.33	47.67	29.00	0	0.00	
VICTORIA D0432	384.0	37,441	4,781.61	5,929.33	1,147.72	38.65	29.00	0	0.00	
BATAVIA D0507	380.0	249,407	7,695.89	5,942.14	-1,753.75	30.00	29.00	812,647	8.64	
SYRACUSE D0494	415.0	102,630	5,280.18	5,943.25	663.07	40.14	29.00	0	0.00	
VALLEY HEIGHTS D0498	460.0	23,073	4,783.98	5,943.42	1,159.44	60.06	29.00	0	0.00	
GREENSBURG D0422	388.0	56,168	4,973.12	5,944.81	971.69	47.83	29.00	0	0.00	
ST FRANCIS COMM D0297	430.0	40,939	5,041.95	5,945.00	903.05	51.25	29.00	0	0.00	
CANTON-GALVA D0419	425.0	35,715	5,130.92	5,955.24	824.32	39.43	29.00	0	0.00	
CALDWELL D0360	324.0	35,799	5,366.08	5,967.82	601.74	68.97	29.00	0	0.00	
ONAGA-HAVENSVIL D0322	434.5	23,283	5,146.73	5,971.03	824.30	71.66	29.00	0	0.00	
CLIFTON-CLYDE D0224	390.0	36,748	5,184.37	5,981.25	796.88	51.20	29.00	0	0.00	
PEABODY-BURNS D0398	378.5	30,320	5,582.65	5,984.84	402.19	66.26	29.00	0	0.00	
STOCKTON D0271	424.0	45,723	4,661.31	5,987.24	1,325.93	49.27	29.00	0	0.00	
UNIONTOWN D0233	485.0	21,086	4,594.32	5,999.56	1,405.24	38.29	29.00	0	0.00	
FAIRFIELD D0310	475.0	51,872	5,726.46	6,000.71	274.25	50.73	29.00	5,733	0.23	
KINGLEY-OFFERLE D0347	395.3	41,052	5,432.09	6,010.18	578.09	71.62	29.00	0	0.00	
CHEYOA D0505	290.0	16,601	5,601.64	6,018.75	417.11	35.40	29.00	0	0.00	
COMANCHE COUNTY D0300	430.0	70,989	5,579.55	6,020.03	440.48	51.38	29.00	0	0.00	
LEROY-GRIDLEY D0245	345.0	42,165	5,067.62	6,044.82	977.20	45.30	29.00	0	0.00	
LINCOLN D0298	420.0	36,650	5,326.88	6,045.98	719.10	52.67	29.00	0	0.00	
BOLDON D0393	327.0	31,983	5,982.47	6,052.75	70.28	57.19	29.00	74,832	7.14	
MARSHTON VALLEY D0256	362.0	30,814	4,347.04	6,053.35	1,706.31	46.90	29.00	0	0.00	
QUINTER PUBLIC D0293	354.0	35,925	5,215.05	6,058.05	843.00	60.73	29.00	0	0.00	
RURAL VISTA D0481	368.5	31,227	5,172.99	6,064.62	891.63	63.82	29.00	0	0.00	
BUCKLIN D0459	370.0	41,418	3,966.89	6,071.39	2,104.50	37.27	29.00	0	0.00	
DEERFIELD D0216	305.0	169,889	5,396.09	6,099.51	703.42	29.67	29.00	0	0.00	
ELL-BALINE D0307	385.0	20,932	4,920.61	6,103.18	1,182.57	40.98	29.00	0	0.00	
LITTLE RIVER D0444	376.0	41,407	5,398.24	6,110.44	712.20	56.00	29.00	0	0.00	
AXTELL D0488	338.0	29,939	5,298.44	6,118.53	820.09	61.06	29.00	0	0.00	
MARAIS DES CYGN D0454	301.0	21,483	5,554.82	6,122.76	567.94	52.19	29.00	0	0.00	
WEST ELK D0282	448.0	35,272	5,424.25	6,124.47	700.22	37.30	29.00	0	0.00	
NORTH JACKSON D0335	417.5	19,782	5,405.36	6,125.60	720.24	36.56	29.00	0	0.00	
ALTOONA-MIDWAY D0387	380.5	24,327	5,369.38	6,135.35	765.97	39.00	29.00	0	0.00	
BARNES D0223	375.0	44,968	5,417.64	6,135.43	717.79	60.70	29.00	0	0.00	
CLUNNINGHAM D0332	310.0	87,402	6,572.44	6,142.62	-429.82	54.36	29.00	233,117	8.81	
SOUTH BARBER D0255	320.0	66,019	5,087.52	6,145.51	1,057.99	50.55	29.00	0	0.00	
BURRTON D0369	280.0	34,703	5,573.24	6,168.98	595.74	59.47	29.00	0	0.00	
CENTRAL D0462	370.0	31,347	4,951.05	6,178.18	1,227.13	59.53	29.00	0	0.00	
OTIS-BISON D0403	368.0	41,388	5,274.55	6,180.23	905.68	44.59	29.00	0	0.00	
CREST D0479	316.0	27,161	4,873.82	6,199.21	1,325.39	50.17	29.00	0	0.00	
LACROSSE D0395	347.0	65,520	5,933.68	6,202.20	246.52	51.25	29.00	17,789	0.78	
STAFFORD D0349	285.0	54,766	6,180.14	6,207.02	26.88	65.68	29.00	80,406	5.17	
CLAFLIN D0354	300.0	52,755	5,574.67	6,231.38	656.71	57.87	29.00	0	0.00	

WEIGHTING FROM COMPUTER PRINTOUT L9278 INCLUDES: LOW ENROLLMENT, AT-RISK, TRANSPORTATION, VOC. EDUC, AND BILINGUAL

EDUC
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DISTRICT NAME	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	1991 EST. FTE 9-20-92	1991 ASSESSED VALIATION PER PUPIL	1991-92 BUDGET PER PUPIL	19278 OPERATING BUDGET PER PUPIL	INCR/ DECR (4 - 3)	1991 GEN. FUND MILL RATE	PLAN BASIC MILL RATE	COMPARISON (105X # 3) - (4) # 1	MILL EQUIV
HIGHLAND D0425	285.0	22,523	5,427.15	6,252.81	825.66	54.31	29.00	0	0.00
GREILEY COUNTY D0200	342.0	82,160	5,456.03	6,268.49	812.46	43.42	29.00	0	0.00
HANKATO D0278	278.0	25,515	5,553.92	6,269.42	715.50	72.86	29.00	0	0.00
WALLACE COUNTY D0241	289.0	48,499	4,845.18	6,279.15	1,433.97	60.77	29.00	0	0.00
ASHLAND D0220	274.5	86,445	5,352.72	6,307.10	954.38	49.48	29.00	0	0.00
SKYLINE SCHOOLS D0438	355.0	60,078	5,422.43	6,313.63	891.20	52.78	29.00	0	0.00
PRETTY PRAIRIE D0311	287.5	37,556	5,715.70	6,327.04	611.34	57.10	29.00	0	0.00
SPEARVILLE D0381	265.0	31,179	4,952.69	6,333.49	1,380.80	54.63	29.00	0	0.00
MADISON-VIRGIL D0386	280.0	36,301	6,013.66	6,339.87	326.21	64.08	29.00	0	0.00
PIKE VALLEY D0426	282.0	35,288	5,104.40	6,347.61	1,243.21	52.61	29.00	0	0.00
INGALLS D0477	260.0	46,049	4,851.91	6,380.00	1,528.09	44.30	29.00	0	0.00
MACKEYVILLE D0351	285.5	100,824	6,216.17	6,386.60	170.43	39.19	29.00	40,078	1.40
GOESSEL D0411	265.0	24,453	5,091.58	6,408.73	1,317.15	67.17	29.00	0	0.00
SOUTHERN CLOUD D0334	257.0	40,971	5,346.38	6,479.86	1,133.48	48.80	29.00	0	0.00
BLUE VALLEY D0384	265.0	27,298	4,934.62	6,490.80	1,556.18	54.80	29.00	0	0.00
JETHORE D0227	271.5	40,172	5,408.84	6,523.66	1,114.82	56.10	29.00	0	0.00
CENTRE D0397	284.5	41,417	5,856.58	6,525.00	668.42	47.33	29.00	0	0.00
ELWOOD D0486	225.5	32,143	5,915.66	6,627.88	712.22	49.42	29.00	0	0.00
LOGAN D0326	232.0	58,654	5,998.33	6,781.25	782.92	42.66	29.00	0	0.00
FLINTHILLS D0492	230.0	46,156	5,535.13	6,893.80	1,358.67	59.36	29.00	0	0.00
SOUTH HAVEN D0509	220.0	32,111	4,696.09	6,902.33	2,206.24	63.01	29.00	0	0.00
ATTICA D0511	195.0	51,891	5,779.38	6,913.53	1,134.15	52.60	29.00	0	0.00
B & B D0451	242.0	23,037	5,753.94	6,929.44	1,175.50	39.97	29.00	0	0.00
HINNEOLA D0219	195.0	63,295	5,374.48	7,026.92	1,652.44	54.53	29.00	0	0.00
ARGONIA PUBLIC D0359	209.0	43,131	5,456.74	7,076.56	1,619.82	67.35	29.00	0	0.00
MONTEZUMA D0371	195.0	56,568	6,421.58	7,097.56	675.98	71.69	29.00	0	0.00
LEWIS D0502	195.0	71,453	5,413.80	7,168.21	1,754.41	51.24	29.00	0	0.00
ROLLA D0217	205.0	343,615	8,437.11	7,181.04	-1,256.07	22.26	29.00	343,975	5.06
ELK VALLEY D0283	185.0	24,548	5,017.17	7,181.42	2,164.25	53.27	29.00	0	0.00
SYLVAN GROVE D0299	220.0	41,508	4,857.90	7,217.05	2,359.15	61.16	29.00	0	0.00
MIDWAY SCHOOLS D0433	200.0	36,822	5,478.19	7,217.38	1,739.19	57.59	29.00	0	0.00
JEWELL D0279	198.0	40,223	5,846.02	7,224.37	1,378.35	55.48	29.00	0	0.00
SMOXY HILL D0302	193.5	73,045	5,864.91	7,240.64	1,375.73	42.17	29.00	0	0.00
WEST SMITH COUN D0238	195.0	34,450	5,766.96	7,253.72	1,486.76	71.16	29.00	0	0.00
CHEYLIN D0103	220.0	83,618	6,527.60	7,273.07	745.47	59.97	29.00	0	0.00
CEDAR VALE D0285	190.0	42,027	4,892.44	7,358.75	2,466.31	52.62	29.00	0	0.00
HAVILAND D0474	168.0	85,055	7,130.79	7,413.99	283.20	51.71	29.00	12,321	0.85
NORTHERN VALLEY D0212	171.0	36,180	5,990.46	7,428.07	1,437.61	71.56	29.00	0	0.00
CHASE D0401	180.0	77,125	6,634.33	7,429.24	794.91	45.85	29.00	0	0.00
PALCO D0269	178.0	98,062	6,490.03	7,484.20	994.17	43.17	29.00	0	0.00
NORTH CENTRAL D0221	170.0	45,125	6,156.85	7,559.19	1,402.34	49.66	29.00	0	0.00
DEXTER D0471	155.0	37,634	6,145.05	7,570.41	1,425.36	50.88	29.00	0	0.00
FOWLER D0225	151.5	71,648	7,023.31	7,575.41	552.10	67.99	29.00	0	0.00
MOSCOW PUBLIC 6 D0209	170.0	480,220	9,978.45	7,603.97	-2,374.48	17.77	29.00	488,478	6.35
EASTERN HEIGHTS D0324	170.0	35,385	5,458.35	7,621.03	2,162.68	48.82	29.00	0	0.00
WHEATLAND D0292	175.5	57,060	7,049.64	7,621.79	572.15	61.27	29.00	0	0.00
WHITE ROCK D0104	170.0	58,342	8,026.97	7,633.82	-393.15	70.99	29.00	135,065	12.97
GOLDEN PLAINS D0316	146.5	53,665	6,303.99	7,707.77	1,403.78	59.81	29.00	0	0.00

COL 4: \$3625 X WEIGHTED ENROLLMENT / EST 9-20-92 ENROLLMENT

WEIGHTING FROM COMPUTER PRINTOUT 19278 INCLUDES: LOW ENROLLMENT, AT-RISK, TRANSPORTATION, VOC. EDUC, AND BILINGUAL.

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EDUC

DISTRICT NAME	EST. FTE 9-20-92	1991		L9278		INCR/DECR (4 - 3)	1991		COMPARISON (105X * 3) - (4) * 1	MILL EQUIV
		ASSESSED VALUATION PER PUPIL	1991-92 BUDGET PER PUPIL	OPERATING BUDGET PER PUPIL	GEN. FUND MILL RATE		PLAN BASIC MILL RATE			
PANTEE HEIGHTS D0496	156.0	68,457	7,078.54	7,707.71	629.24	75.40	29.00			
HANSTON D0228	144.0	65,949	7,004.31	7,753.47	749.16	64.51	29.00	0	0.00	
GRINMELL PUBLIC D0291	152.0	57,026	7,042.04	7,822.37	780.33	63.35	29.00	0	0.00	
BAZINE D0304	127.0	72,038	7,219.14	7,837.99	618.85	63.35	29.00	0	0.00	
BREMSTER D0314	142.0	77,272	6,501.77	7,085.65	1,383.88	44.43	29.00	0	0.00	
HILLCREST RURAL D0453	143.5	43,048	6,749.34	7,957.37	1,207.98	71.62	29.00	0	0.00	
PARADISE D0399	133.0	130,469	8,211.69	8,021.34	-190.35	50.65	29.00	79,924	4.28	
COPELAND D0476	118.0	94,033	9,243.50	8,045.66	-1,197.84	82.14	29.00	195,882	18.43	
WEST GRAHAM-NOR D0280	117.5	75,718	8,391.35	8,045.96	-345.39	69.73	29.00	89,883	9.89	
HAMILTON D0390	115.0	61,943	6,297.64	8,050.65	1,753.01	56.40	29.00	0	0.00	
HEB TRE LA CO D0301	80.0	134,007	9,347.92	8,142.66	-1,205.26	50.96	29.00	133,812	11.89	
HEALY PUBLIC SC D0468	95.0	86,563	7,337.18	8,177.24	840.06	72.59	29.00	0	0.00	
WEBKAM D0242	105.5	72,237	7,082.13	8,201.78	1,119.65	61.55	29.00	280,068	22.35	
MULLINVILLE D0424	100.0	120,502	10,483.50	8,207.00	-2,276.50	64.90	29.00	0	0.00	
HERNDON D0317	76.0	62,326	6,895.35	8,208.72	1,313.37	65.28	29.00	0	0.00	
TRIPLAINS D0275	116.0	85,098	7,186.99	8,265.63	1,078.64	66.48	29.00	0	0.00	
WEST SOLOMON VA D0213	86.0	74,678	8,635.10	8,354.36	-480.74	72.81	29.00	79,333	11.12	
PRAIRIE HEIGHTS D0295	100.0	54,358	7,090.17	8,424.50	1,334.33	83.56	29.00	0	0.00	

STATE TOTALS	431,243.9	1,500,962.80	1,715,736.79	214,773.99	8,816.00	17,304.73	66,737,803	303.57		

*COL 4: *3625 X WEIGHTED ENROLLMENT / EST 9-20-92 ENROLLMENT

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John McDonough 8530 Bradshaw Lenexa, Kansas 66215 (913) 888 4455

Presentation To The Kansas Legislatures' Senate Education Committee.
March 25, 1992. Re: HB. 2892 & Its Unnecessary & Massive Tax Increases
Designed To Further The Public School Lobby's Monopoly Of Our Children.

I am John McDonough of Lenexa, here to oppose HB 2892, because it would yet further increase the public school lobby's monopoly of our children. The monopoly that presides-over dangerous schools for children & their teachers, dangerous physically & educationally, even morally --- yet financially forcing compulsory attendance for the lobby's members' perceived monetary self enrichment --- which is the usual goal of all monopolies. And opposing 2892 also, because it would unconscionably rob our society of massive funds needed for other priorities, including the needs of taxpayers.

This Santa Claus Spending & Taxing Syndrome, to further enrich the "haves," is out of control. Instead, in attachment #1, I offer 10 revenue sources which can free-up over a billion state & local dollars without tax increase "one.", by busting the lobby's strangle-hold on you legislators & on our society. So that I'll take less than 3 minutes, I provide them for your later review, rather than going into them now..

My attachments #2 & 3 provide rebuttal to the "justifications" the lobby lays on us to continue its monopoly --- steak for you, instead of their baloney.

Attachment #2: A summary of Missouri supreme court Justice/Chief Justice Charles Blackmar's paper endorsing school choice & vouchers. Case law references and remarks of leading constitutional professors/authorities.

Attachment #3: A paper by a Heritage Foundation expert on education reform --- "Phoney Assertions.About School Choice: "Answering Critics."

Again, hope you review them later.

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I ask that you price out the savings plans I offer. I've asked you many times to do so. It's your duty --- to your conscience, & to your constituents, & to our Kansas --- even though the public school monopolists will hate you for so doing. And that if you still feel inclined to endorse raising our taxes, despite the polls showing Kansans don't want you to, that you put the plan to a vote of the people, at least. Why not?

In closing, I refer you to the attached clipping --- the words of the Baptist minister - from his eulogy - the funeral of a boy gunned down at a Brooklyn high school recently - "I am not saying that it should be closed down but it at least it ought to be thought about, and **then maybe some of the young people who are trapped by laws & regulations & codes that were dreamed up inconsiderate of them might be given the vouchers that they deserve to go to where they want to go.**"

Asides 3 17 92 *WJS*

School-Voucher Struggle

In a recent editorial about the Wisconsin Supreme Court's ruling in favor of Milwaukee's school-choice program, we drew attention to the opposing forces in the litigation. Lower-income parents and their children were up against educational administrators and the teachers' unions. This has struck us as one of the most interesting fault lines now developing in U.S. political life. But these black parents have no fully active champion yet at the national level. Public unions are a bedrock constituency for Democratic politicians of the sort now contending for the presidency, and George Bush so far hasn't spent much time personally in the neighborhoods where

school choice is becoming popular. But the subject itself keeps emerging. After two students were gunned down at a Brooklyn high school recently, the Times reprinted the funeral eulogy given by Baptist Pastor Johnny Ray Youngblood for one of the slain. He said, among other things: "About five years ago, the suggestion was in the newspapers that Jefferson be closed down. I am not saying that it should be closed down but at least it ought to be thought about, and then maybe some of the young people who are trapped by laws and regulations and codes that were dreamed up inconsiderate of them might be given the vouchers that they deserve to go where they want to go."

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EX. 1

John McDonough 8530 Bradshaw, Lenexa, Ks. 66215 (913) 888 4455

Presentation To Committee On Taxation, Re: HB 2891, March 4, 1992.
House Of Representatives, Topeka, Kansas. State Capital Building.

I'm John McDonough Of Lenexa, here to support the concept of HB. 2891---the 45 mil statewide school levy Equalization proposal; and to offer 10 revenue sources to end the unnecessary Santa Claus State Spending & Taxing Syndrome which brings us together today. To hold my verbal presentation to 3 minutes, I'll cover only the bold print on the passouts I've provided to you.

1st Category: Users' Charges:

A. "School Connection Charges." On April 7th Johnson Countians will vote on a sewer plan that includes a \$1,500 sewer connection fee for those beginning use of the system. I'll be voting for it, so that we will no longer be so heavily subsidizing new arrivals' sewers..

Similarly, instead of routinely building 10 & 20 million dollar schools to accommodate moves to undeveloped areas, why should'nt the same logic apply to those beginning use of the school system? --- Connection charges, then, as a school revenue source for your deliberations. Sure, we'd like to be Santa Claus, but...

B. "Tuition For Public Schools." We hear that under the 45 mil levy, the Shawnee Mission-Blue Valley-Olathe schools want an additional \$38 million ---"excellence" will suffer unless local taxes are increased , they insist. That only more taxes can cover the \$38 million is a given , they would have us assume.

No! One of the other ways is to have the beneficiary public school family pay \$600 to \$700 tuition per child, per year. That would provide the \$38 million wanted. (From those who can afford to pay --- after all, their subsidy being \$5,000 per child, per year, \$600 is only about 12% of the subsidy amount.) They'll pay some tuition at public colleges. Why not some at grade & high, now that budgets, deficits, and debt are so astronomical, & no end in sight for our local/state/national financial shortfalls? Sure, we'd like to be Santa Claus, but...

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Note that the 2 child public school family pays school taxes of about \$2,500 yearly, like other households --- that each child's share of all school costs (grade & high) is about \$5,000 yearly --- \$60,000 for 12 school years each --- \$120,000 for that one family --- add another \$40,000 if they go on through public colleges, \$160,000 subsidy for just one family --- & there are hundreds of thousands of them, of course.

By the time, then, that the kids have both completed high --- that one family has paid about \$38,000 in school taxes, but benefitted from \$120,000 in subsidy. Is not some amount of tuition, then, a logical revenue source for your deliberation?

C. Tax The Subsidies Received By School Families. It's done with Social Security benefits, which until several years ago were untouchable. The Feds hate to do it, but they're driven to the wall by budget needs, as you are now, and will continue to be forever. So, another logical revenue source.

D. And Also, Tax College & Jr. College Subsidies Received. Payments to begin about 5 years after receipt. On ability to pay. And again, because we can't afford to give it away without repayment. So, another logical revenue source.

Second Category: Privatize & Downsize Public School Enrollments.

E. Introduce \$1,000 School Vouchers. If 25% of pupils transfer to private schools, save \$360 millions, a logical source of revenue for your considerations.

We don't need tax increases. What we need is honesty from the legislature. Don't let these massive savings opportunities be covered up, cheated on, any longer.

It's too much like Eastern Europe before the wall came down. And don't allow their secret agenda to continue any longer --- where the school lobby uses its voting muscle to monopolize our school kids, and to monopolize our state & local budgets.

F. And Also, Introduce College Vouchers. Again, so as to obtain massive budget savings by utilizing the private sector. A logical source of revenue for your considerations.

Witness the waste of closing Dodge City's private college, St. Mary's, recently scheduled. Another 500 to 1,000 students likely financially forced onto near full subsidy at state colleges, to join thousands more already forced there & onto near full subsidy in the state budget --- and surely you'll hear insistence from that branch of the school lobby for more funding, for only themselves, to monopolize the teaching/handling of that new college "load."

G. Private Fund Raising In The Community, If The District Needs More "Excellence" Than The 45 mils Provide. Again, the assumption that only tax money can pay public school expenses stands in the way of local effort. No doubt, too, the legislators have been easy marks --- so why go to extra effort otherwise? **Like foundations, fund drives, etc.** Santa Claus needs their help.

H. Allow Those Educating Their Own Children Exemption From "Paying Double". Consider that their payment to private schools is indeed carrying their share of the public education financial burden. That to, then, make them pay another \$2,500 a year (property-sales-income taxes) --- for other families' kids in public schools --- is a further factor pushing them out of private schools & onto full subsidy by enrolling in public schools.

Third Category: Other Policy Changes To Get Over The Santa Claus State Spending Syndrome.

I. The State Constitution Is Purposely Designed To Financially Coerce Public School Enrollments By Families. Aside from the loss of liberty resulting, the constitution must be changed because of the budget/taxation Santa Claus it has created. That state & local super spending syndrome is out of control. Constitutional amendment proposals may well be in double digits this session --- surely this change should be among them.

J. The Market System, & Constitutional Amendments.

THE CHANGES SHOULD MOVE US TO FAIR SCHOOL CHOICE, THE MARKET SYSTEM FOR EDUCATION & AWAY FROM THE PRESENT SCHOOL SOCIALISM. ALL OF THESE STEPS TO IMPROVE THE QUALITY OF OUR SCHOOLS, SAFETY FOR OUR CHILDREN, & TO OVERCOME BUDGET SHOCK.

EX. 2

A Summary Of The Remarks Of
Missouri Justice/Chief Justice Charles Blackmar, January 29, 1992
On the Matter Of Parental Choice & School Vouchers.

Justice Blackmar was most encouraging that properly drawn legislation would "pass constitutional muster" --- that so long as drawn to (1) include all children, and (2) to benefit each child directly rather than the institution, constitutional requirements are satisfied --- supporting his view by referencing a number of legal decisions, and below is a listing of some of them. He stressed throughout "the dynamics of changes in court decisions which give me great encouragement, that a school choice/ voucher law would be upheld in the courts."

The Justice also noted that "...the dialogue aimed at resolving, or at least greatly alleviating, the current problem of inadequate public education at the primary & secondary level. This matter has gained a high profile due to public reaction to current educational levels of high school graduates; the experience that business & industry has had in their efforts to employ young people recently graduated from our public high schools; & the publicized viewpoints & criticisms of teachers & other professionals."

Everson: 1947. Held that it was much too late to argue that legislation (bus rides) intended to facilitate the opportunity of children to get a secular education serves no public purpose. "That sounds like a freedom of choice-voucher system to me." Said Blackmar, and he continued "...The child was the beneficiary - not the school. The benefit was universal - available to all children. That's what you are talking about here."

Wheeler: 1974. Held that parents & children in private schools were entitled to comparable services (special programs for educationally deprived children) as provided to public school children. " It's just another example of why you should not be discouraged but should be encouraged to pursue your objectives"...commented Blackmar.

Wheeler: 1966. Held that parochial students couldn't split time between schools for speech correction classes. But, following, the Missouri legislature arranged a statute which obviated the problem.

Rogers: 1976. Held that neither state nor federal constitutions bar tuition grants to college students at public or private colleges --- payments made directly to the students.

Blackmar added that federal child care programs for pre-school day care are in place & working in Missouri, & the children can be placed by the parents in either public or church connected day care centers. School lunch & breakfast programs have been in existence since 1947, & provide benefits to public & parochial school children in Missouri. These are really choice/ voucher type laws and programs.

Blackmar continued: The key to these, **from a constitutional standpoint**, is that (1) the benefit is conferred upon the child or student - not upon the particular school; and, (2) also these were universal access benefits, which means they were available to all children attending public & private schools alike.

Mueller: 1983. Upheld income tax deductions for tuitions paid by parochial students.

Witters: 1986. The supreme court unanimously found no 1st amendment barrier to a state's provision of financial assistance to an individual studying at a Christian Bible College to become a pastor, missionary or youth director.

And then Justice Blackmar added testimony of legal scholars:

Professor Michael McConnell, Univ. Of Chicago Law School.

RE Pennsylvania's proposed "choice in education" legislation. "The First Amendment exists to guarantee religious freedom to all. An important part of religious freedom is the freedom of the parents to direct & control the education of the child in accordance with their own faith & conscience - be that secular or religious. This is a freedom exercised by the wealthy, who can afford private schooling. It should be a freedom, no less, of parents with middle or lower incomes. McConnell based his constitutional opinion on the Mueller & Witters cases. (above)

Professor Lawrence Tribe. Harvard.

Any objection to a "voucher program could no longer rest on any legal doctrine but if anything, would have to rest upon policy determinations", which are really matters for a general assembly.

Professor John E. Coons. UCLA-Berkley.

"The state is not taking any position one way or another on where you ought to spend it, which is different than the state giving money to any religious institution through a contract. It is merely giving the parents who are not rich the same authority over family affairs that the rich have always had."

PHONEY ASSERTIONS ABOUT SCHOOL CHOICE: ANSWERING CRITICS

EX. 3

By Jeanne Allen****

There are several phoney assertions made by opponents of school choice. Here are some of them -- with short answers.

Assertion #1 -- The Undermining-America Argument: Choice will destroy the tradition of common schools in America, subsidizing private schools at the expense of the public schools. These schools, which embody the classless and democratic principles of the United States are enshrined in the public school system.

Says Wisconsin Superintendent of Public Instruction Herbert Grover: "[T]he private school choice program is not a solution but a program that is in conflict with the intent of the common schools established for the common good of our society."¹

Response:

The term "public education" was first used in 1837 by Horace Mann, then chairman of the New York State Board of Education, to describe the goal of an educated citizenry, seen in part as an effective way to knit together the millions of immigrants from many lands who were coming to America. Charles Glenn, Educational expert, author, and former director of equal opportunity for the state of Massachusetts writes that, "At the heart of this vision was the idea of the common school, a school in which the children of all classes and representing all levels of society would be educated together and would thus acquire the mutual respect essential to the functioning of a democracy."²

Indeed, opponents of choice often talk of the notion of the common school and

frequently invoke the name of Horace Mann.

As University of Chicago sociologist James Coleman has discovered in his research, however, public schools rarely conform to the common school tradition.³ They tend, rather, to be the most exclusive and segregated schools. Ironically, private religious schools are more consistent with the common school philosophy than are public schools. Private, inner city Catholic schools in such cities as Chicago and New York bring together children of widely differing social and economic strata.

Choice, in fact, affords Americans the best chance of re-creating the truly common school by returning all children to a level playing field and ensuring that schools are representative of diverse communities. Parents of all colors, socio-economic levels, and classes should be able to choose among the widest range of schools possible, rather than being segregated out of a particular school because its cost may be prohibitive. Similarly, taxpayers required to subsidize their local school districts should have some say over what occurs in the schools. While opponents boast of "public accountability" in the schools, in reality the schools are no longer accountable for their employees, their product, or their daily operations. Choice makes schools accountable directly to consumers.

Assertion #2 -- The Creaming Argument: Choice will "leave behind" the poor and

****Jeanne Allen is an expert on education and education reform as well as financing of education which she covers for the Heritage Foundation.

most difficult to educate, while good students will be "creamed" into the best schools.

Says California Superintendent of Public Instruction Bill Honig: "The voucher approach risks creating elite academies for the few and second rate schools for the many."⁴

Response:

The "creaming argument" supposes that poorer and less able children will tend to be left behind in the worst schools when parents have a choice of schools. Adherents of this view presume that most minority or lower-income parents do not know the difference between good and bad schools and that their children thus will end up in bad schools. Hence, the argument goes, choice plans are unfair because they separate the "haves" from the "have-nots."

While the "creaming" theorists are concerned about inequality under a choice plan, they seem to ignore that today's education system is extremely unequal. The "haves" already have choice because they have the money to choose a private school for their children.⁵ The "have-nots," meanwhile, are trapped in major urban school systems in which the quality of education is appalling despite heavy spending by the school districts.

Successful Magnet Schools. Choice is a tool to reduce this inequality. The evidence shows that choice improves all schools, not just a few, and that poor parents are quite able to find the best schools. This is very clear in the case of "magnet schools," which are specialized schools offering unique programs. They are designed to attract children of all races. They constitute a limited form of parental choice, in that parents opt to send their children there in place of the school to which they were assigned. They

post significantly better results than other public schools. Large magnet school systems have been functioning for more than a decade in over 100 cities nationwide.

Adherents of the creaming argument contend that magnet schools nationwide can boast success simply because they attract smart children of smart and very involved parents.⁶ Yet the evidence on many long-established magnet schools suggests this is not the reason. These schools credit their success to the child's excitement at being in the school and the school's ability to tailor its lessons to the needs of individual students.⁷ Magnets do not, in fact, selectively enroll children. Indeed, since demand is high, they operate generally by lottery, to ensure that all parents have an equal opportunity at a limited number of spaces. Moreover, refuting the assertions of choice critics, parents of these children are not necessarily the most involved and better educated parents.

Evidence suggests, meanwhile, that poor and disadvantaged parents are just as capable as better-educated or higher-income parents of distinguishing between good and bad schools. The problem today is that poor parents are rarely given the opportunity to do so. When they have the opportunity and are given full information about the choices open to them, they choose well.

Proponents of the creaming view assume that there is a static pool of schools and that choice plans will allow good schools to drain away the better students; the bad schools will continue to educate the worst students and deteriorate. This criticism overlooks one of the most fundamental dynamics of choice: the ability of parents to choose schools forces existing public schools to change. Another dynamic is that good schools expand and new schools

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emerge. If bad schools cannot or will not improve, their students can go elsewhere. The assertions about "bad children being left behind" simply do not take into account the dynamics of a school choice plan.

Assertion # 3 - The Incompetent Parent Argument: Since some parents are truly incapable of making choices, such as those who abuse drugs, some parents are also incapable of wisely exercising their choice option, thus consigning their children to sub-standard education.

Says Urban Institute scholar Isabel Sawhill: "The emphasis on choice . . . conflicts with the rising body of evidence that poor families are often beset with a multitude of problems, making it difficult for them to cope with the added responsibility -- such as evaluating different schools or owning a home."⁸

Response:

The evidence actually suggests that the opportunity to make a real decision about the education of their children -- possibly for the first time in years -- can shake an individual out of a life of despair and dependency. This notion undergirds the philosophy of empowerment, and its dramatic effects can be seen in the success of tenant management of public housing and similar empowerment strategies.⁹ According to New York University political scientist Lawrence Mead, allowing or requiring the poor to make decisions renders them just as capable of good decisions or work habits as someone who is better off. Writes Mead, "The poor are as eager to work [and participate in decisions] as the better-off, but the strength of this desire appears to be unrelated to their work behavior. . . most clients in workfare programs actually respond positively to the experience of being required to work, not negatively as they would if they truly rejected work."¹⁰

The ability to choose leads to one of two outcomes. In very many instances it leads to parents gaining the self confidence to exercise control over their lives. But even if this does not happen, children are still assigned a school under choice plans. The assigned school is not likely to be worse than the one now attended by the child. Indeed, it is likely to be better because of the improvements forced by increased pressure from other parents.

Deeply troubled or dysfunctional children, meanwhile, are likely to do better under a choice system because it will make available a wider range of schools, especially if private schools are included in the choice program. As Abigail Thernstrom says ". . . Already many private schools meet the needs of dysfunctional children."¹¹

To be sure, ready availability of information is more important to poorer and less able students than to sophisticated parents. For this reason, choice plans such as those crafted by Brookings Institution senior fellow John Chubb and Stanford University professor Terry Moe would require parent information centers and parent liaisons to help parents who need assistance in making choices.¹² But even if such sources of information were not available, the worst that could happen is that children for whom no choice is made would be assigned to a school -- which is no different from what occurs today.

Assertion #4 - The Non-Academic Parental Neglect Argument: Parents will use such criteria as a school's location or its athletic facilities, rather than quality of the education it provides, in deciding what school their child will attend.

Asks American Federation of Teachers President Albert Shanker, "Do most [parents] -- rich, poor or in the middle -- really want rigorous standards for their

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children? And if they don't would they choose rigorous schools?"

Response:

Choice critics like Shanker argue that most parents would not bother to choose a school or if they did, they would do so on the basis of non-academic concerns. They point to public school choice plans in Minnesota, where only a small percentage of students actually switched schools when state-wide open enrollment was instituted last year. The most common reasons given by parents for switching schools included transportation, proximity to work and child care, and athletics.

Minnesota is not a valid example. For one thing, its choice program is limited. In most grades the choice of school is restricted entirely to the public sector. For another thing, there are few academic differences among public schools in Minnesota's mainly suburban, sprawling communities. Significant differences may emerge, of course, as schools begin to make major improvements to meet competition.

The law creating the open-enrollment plan, moreover, did not include mechanisms to make change easy in Minnesota schools. Thus superintendents function as they did before and principals and teachers have not seen their autonomy increased. As such, schools cannot respond easily to parental choices. Minnesota and other states with open-enrollment policies also have not taken sufficient steps to make information available to parents. In Iowa, for example, no money has been allotted from the annual state school budget for outreach information. The result: parents find it hard to obtain academic information on which to base decisions.

Parent frustration in Minnesota already is

prompting changes in the law. I Minnesota legislature this June enacted the Charter Schools Act, making it possible for teachers to form their own school, and be free from most state oversight.¹³

Shanker's argument unwittingly underscores the need for choice. The fact is that parents routinely are kept in the dark about how well public schools perform because hard performance information generally is unavailable. The need for such information has led an increasing number of choice advocates to support calls for state and national testing to give schools performance standards and to give parents a gauge by which to measure their children's achievement.

Once an accurate and dependable system of accountability is in place, parents will become smart consumers and can demand improvements – even if they choose not to change schools. Of course, even with clear performance testing and with precise information on which to make choices, some parents may decide that a neighborhood school or a school with an emphasis on team sports is better for their child than one which excels in mathematics. But that should be their choice to make as parents. It is a choice made routinely by affluent parents. Choice plans allow poor parents the chance to make that same decision.

Assertion #5 - The Selectivity Argument: Private schools in the choice plan will admit only easy-to-teach children, leaving difficult, less academically gifted children in the public schools. Such selectivity is the reason for the private schools' vaunted ability to outperform public schools.

Says Senator Edward M. Kennedy, choice has the potential to be "a death sentence for public schools struggling to serve disadvantaged students, draining all good students out of poor schools."

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Response:

While some private schools set high admission requirements, the fact is that parochial schools -- the private schools serving most children in cities with or considering choice plans -- actually are less selective than public schools.

According to sociologist James Coleman, Catholic schools in particular boast success in raising the academic achievement of population groups that do poorly in public schools, including blacks, Hispanics and children from poor socio-economic backgrounds. "The proximate reason for the Catholic schools success with less-advantaged students from deficient families appears to be the greater academic demands that Catholic schools place on these students."¹⁴ Research by Brookings scholars Chubb and Moe further shows that private schools in general excel because of their organization, not because they weed out less able students through set admissions criteria.¹⁵

To avoid the possibility of private schools rejecting students who are particularly costly to teach or accommodate, such as handicapped children or those with pronounced learning disabilities, Chubb and Moe recommend that choice plans offer more valuable scholarship certificates for such children to encourage schools to create programs suited to their needs. Many school systems in fact already contract with private centers to provide extra assistance to public school children with special needs.

Assertion #6 - The Radical Schools Scare: A choice system will lead to "fly by night" schools, which take public funds without providing adequate education. Worse still, schools espousing radical or extremist dogmas would emerge, perhaps even those run by the Ku Klux Klan or by black extremists.

According to critic Isabel Sawhill, "Diploma factories might be established in the inner cities to take advantage of the government funding, it is argued, similar to the recently exposed examples of vocational schools that exploit low income students to profit from federally sponsored student loans."¹⁶ Adds California Superintendent Bill Honig, choice "opens the door to cult schools. Public schools are the major institutions transmitting our democratic values. By prohibiting common standards, [choice proponents] enshrine the rights of parents over the needs of children and society and *encourage tribalism* [emphasis added]. Should we pay for schools that teach astrology or creationism instead of science? Should we inculcate racism?"¹⁷

Response:

Most states have imposed minimum academic standards on private as well as public schools. Most education choice proposals, moreover, require the government to play some role in enforcing federal anti-discrimination laws and ensuring contractual obligations to students. If governments fail to do this effectively, as the federal government is accused of doing for trade schools, this is a deficiency of government, not of consumer choice. As it is, a good number of public schools today would be found delinquent in complying with a government regulation requiring good value for money.

While many for-profit trade schools abuses have been documented, the vast majority of schools of higher education currently operate in a choice system and state or federal assistance follows needier children to the school that they choose. Unlike its public education system, American higher education is considered world class.

As to the claim that bizarre or extremist schools will proliferate under a choice

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system, nothing prevents such schools from opening and attracting customers today in the private sector. The fact is that few exist. Fewer, if any, would be established under choice programs. One reason is that schools are banned from discrimination on the basis of race under the 14th Amendment. Another reason is that a school accepting government funds under a choice program would be subject to some additional constraints. In short, Honig's vision of "cult schools" is mere fantasy.

Assertion #7 - The Church-State Problem: Choice plans that include private, religious schools are unconstitutional because they violate the First Amendment's establishment clause.

Robert L. Maddox, Executive Director of Americans United for Separation of Church and State, claims that public funds cannot be used at religious schools without "violating the constitutional separation of church and state." He adds that "A long line of Supreme Court cases has repeatedly found that the First Amendment bars the expenditure of tax money to support religion or religious schools."¹⁸

Response:

This claim, though widely believed, simply is wrong, as the *Congressional Quarterly* notes in an April article on school choice "The federal government already provides Pell grants to students at private, religiously affiliated colleges, notes Michael W. McConnell, a law professor at the University of Chicago. The GI bill even covers tuition at seminaries."¹⁹ The article also points out that Harvard Law School's Lawrence Tribe, one of America's most liberal constitutional scholars, says that the current Supreme Court would not find a "reasonably well-designed" choice plan a violation of church and state. He agrees there may be policy concerns about

choice, but that the constitutional concerns have been addressed in a litany of cases.

The Supreme Court generally has applied three tests in "establishment clause" cases, to determine whether legislation to support private schools is constitutional. First, the program must serve a secular purpose. Second, its "primary effect" must neither advance nor inhibit religion. And third, it must not foster an "excessive entanglement" between government and religion.²⁰

In practice, as long as a school choice program puts the decision of where the funds are spent in the hands of individual students or parents, and as long as the program does not discriminate in favor of religious schools, the program is likely to survive any constitutional challenge.

Assertion #8 - The Public Accountability Argument: Private and parochial schools in a choice system would not be regulated by state and federal laws, and therefore would not be accountable to public authority.

Asks Boston University Professor of Education Abigail Thernstrom: "Would taxpayers have an adequate say in how their money is spent?" Claims a *New York Times* editorial, choice among both public and private schools would "undermine the accountability and morale of public schools."²¹

Response:

The irony of the accountability argument is that in most cities it is the public schools, not the private schools, that are not accountable to parents or even taxpayers. The private schools, by contrast, are directly accountable to their customers. The editors of *The New York Times*, for instance, need only consider the abuses of public funds in New York City schools, which their newspaper has

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documented, to appreciate that limiting the use of public funds to public schools is no guarantee of accountability.

Residents of Chicago also know that government control of a school does not guarantee fairness or equity. This is why in 1989 they backed a radical overhaul of the city's schools, giving control to parents to run schools. Most private institutions constantly feel forced by competitive pressure to provide a regular accounting of expenditures and receipts, and to detail the achievements of their students.

Assertion #9 - The "Choice is Expensive" Argument: There are large hidden costs associated with school choice programs. Transportation costs, for instance, would be so prohibitive as to offset benefits.

Senator Nancy Landon Kassebaum fears that "transportation costs alone could grow and grow, making choice programs infeasible."²²

Response:

Choice does not imply higher costs, not even higher transportation costs for large districts. "A system of educational choice need not cost more than current educational systems, and might cost less," says Brookings' John Chubb. "If the supply of schools is allowed to respond to demand, the supply is likely to expand, with relatively small numbers of large comprehensive schools being replaced by larger numbers of small, more specialized schools. This expansion could easily occur without the construction or acquisition of new facilities if several schools shared a building."²³

Chubb's view is firmly grounded in experience. The choice program in East Harlem District 4 in New York City was created among 20 pre-existing school buildings. Today students can choose from 52 alternative schools, many of which

share a building with other schools. Thus wider choice does not necessarily mean increased overhead or transportation costs. This schools-within-a-school concept would be very appropriate for rural areas where transportation costs could indeed mount if students needed to travel farther to their chosen school.

Choice plans actually may reduce transportation costs in many instances because demand might lead to new schools. And overhead administrative costs very likely would fall since, as Chubb explains, "There is every reason to believe that the administrative structure of a choice system would be less bureaucratized than today's public school systems, and look more like private educational systems, where competition compels decentralization and administrative savings."

¹From: Heritage Foundation Background, #852.

²Herbert Grover, "The Milwaukee Choice Plan," *Wisconsin Choice News*, August 1990, p. 4.

³Charles L. Glenn, *The Myth of the Common School* (Amherst, MA: University of Massachusetts Press, 1988).

⁴James Coleman, *Public and Private Schools* (New York, New York: Basic Books, 1987).

⁵Bill Honig, "School Vouchers: Dangerous Claptrap," *The New York Times*, June 29, 1990.

⁶Or move to an affluent neighborhood with better schools.

⁷Suzanne Davenport, "School Choice," *Designs for Change*, 1989.

⁸U.S. Department of Education, "Choosing Better Schools: A Report on

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School Voucher News

Watchdoggin': As Kansas' Public & Private Leaders Financially Coerce Kids Into The Dangerous Public Schools, Running Up Property Taxes Unnecessarily.

SCHOOL VOUCHERS CAN SOLVE
OUR STATE & LOCAL BUDGET
PROBLEMS, & NO TAX INCREASE.

Elected Officials Hide From

**Extra! Extra!
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Edition!**

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State Capitol, Topeka, Kansas. Feb. 18, 1992.

Elected officials to kill School Voucher
tax saving plan. To raise taxes instead

Here's the meat. See inside for background of this story.

McDonough stressed, throughout, that **without School Vouchers**, we are financially trapped into submission by the current public school monopoly (85 %+) of the education market; trapped into lack of competition for education quality; trapped into sending our kids off to their dangerous places; trapped into way too much school spending with its monster high property taxes, ditto sales & income taxes --- hurting our house values & chasing away our jobs & businesses; trapped into forcing private school families to pay double; **trapped into diverting vast sums to schools-that-aren't-needed**, instead of to the hungry/homeless/health care/illiteracy/drug problems/infrastructure/environment/gov't & private debt & deficits/ & other public priorities.

If legislators are elected to represent the people, who now in majorities want School Vouchers, should not those legislators endorse HR. 2853 --- unless they, instead, are really here to represent the special interests? We shall see!

School Voucher News PO Box 19081
Published By John McDonough
Lenexa, Kansas (Zip) 66287

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the Five Regional Meetings in Choice in Education," December 1990.

⁹Isabel V. Sawhill, Raymond J. Struyk, and Steven M. Sachs, "The New Paradigm: Choice and Empowerment as Social Policy Tools," *Policy Bites*, The Urban Institute, February 1991, p. 5.

¹⁰John Scanlon, "People Power in the Projects: How Tenant Management Can Save Public Housing," Heritage Foundation *Background* No. 758, March 8, 1990.

¹¹Lawrence Mead, "Jobs for the Welfare Poor," *Policy Review*, Winter 1988, p. 65.

¹²Abigail Thernstrom, "Hobson's Choice," *The New Republic*, July 15, 1991, p. 13.

¹³John E. Chubb and Terry M. Moe, *Politics, Markets, and America's Schools* (Washington, D.C.: The Brookings Institution, 1990), p. 221.

¹⁴Ted Kolderie, "Minnesota's New Program of 'Charter Schools'" (Center for Policy Studies: St. Paul, MN), June 1991.

¹⁵James Coleman, *Public and Private Schools*, Basic Books, New York, 1987, p. 148.

¹⁶Chubb and Moe, *op. cit.*, p. 129.

¹⁷Isabel V. Sawhill, Raymond J. Struyk, and Steven M. Sachs, "The New Paradigm: Choice and Empowerment as Social Policy Tools," *Policy Bites*, The Urban Institute, February 1991, p. 5.

¹⁸Honig, *op. cit.*

¹⁹Robert L. Maddox, Letter to the Editor, *The New York Times*, May 10, 1991.

²⁰The *Congressional Quarterly*, April 27, 1991.

²¹Bolick, Part II, *op. cit.* The st provides details of key court cases on choice.

²²"Skimming the Cream Off Schools," *The New York Times*, July 26, 1991.

²³John Chubb, "Educational Choice, Answers to the Most Frequently Asked Questions About Mediocrity in American Education and What Can be Done About It." The Yankee Institute for Public Policy Studies, July 1989, p. 22.

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Opposition to Choice by Beneficiaries of Government School Monopoly

Citizens for Educational Freedom Chairman Paul Mechlenborg of Cincinnati said, "Opposition to the inclusion of parental choice of schools in the Excellence in Education Act is instigated by government (public) school administrators, teachers' unions and state and local agencies which seek to maintain the monopoly they now have over the American educational system."



BURLINGTON UNIFIED SCHOOL DISTRICT NO. 244

District Office
200 SOUTH SIXTH
BURLINGTON, KANSAS 66839
316-364-8478

TESTIMONY FOR THE SENATE EDUCATION COMMITTEE
Opposing House Bill 2892
by
Larry Clark, Superintendent of Schools
Burlington U.S.D.No. 244
March 24, 1992

The Burlington Unified School District No. 244 on behalf of its taxpayers wishes to protest the concepts of House Bill 2892. We appeal to the members of this committee to consider the ramifications of a bill that; 1. does not address long range funding, 2. is tied to a uniform mill levy without a system of checks and balances, 3. places an undue hardship on certian districts and 4. restricts the home rule decision-making process of the local Boards of Education.

The funding of the HB 2892 is questionable. The bill as outlined by the Governor seems to have a funding shortage of approximately two hundred million dollars. We cannot support a bill that sets a uniform mill levy not knowing if the mill levy will remain at the initial level or be increased as there is a need for additional money.

The home rule decision-making authority of the local boards will be eroded with the implementation of HB 2892. The uniform mill levy will eliminate the local input through the first 29 mills, thus leaving local patrons or elected officials without a voice in a very important part of running a school district. The people of Burlington USD 244 make the best decisions for our students.

In conclusion, we want to emphasize that House Bill 2892 will have a negative effect on all taxing units. It is not a long term solution to the current funding dilemma. The legislature rushed into classification and reappraisal with very little understanding of what the effect would be on taxpayers. We urge the Senate Education Committee to not rush into HB 2892 without fully understanding the long term effects on taxpayers and taxing units.

Thank you for your time and consideration. If you have questions I will be happy to address them.

BURGESS & ASSOCIATES

Suite 1100 - 800 SW Jackson - Topeka, KS 66612
(913) 234-2728 Fax (913) 233-7991

Testimony

before the
Senate Education Committee

Presented by Denny Burgess
Representing Southwest Kansas
Royalty Owners Association
Wednesday March 25, 1992

Mr. Chairman and members of the committee:

I am Denny Burgess appearing today for the Southwest Kansas Royalty Owners Association. Bernie Nordling is the Executive Secretary of the Association. Mr. Nordling appeared before the joint Tax and Education Committees on Feb. 13 and presented some 13 pages of testimony opposing HB 2891 and 2892. He mailed a copy of his House Committee statement to each member of the Senate. I think you all have that testimony, so in the interest of saving trees which are in short supply in Southwest Kansas I have not made 20 more copies of Mr. Nordling's statement. I have however provided a copy for the records of this committee.

In that testimony on February 13, Mr. Nordling expressed the very real concern that adding to the heavy tax burden on the oil and gas industry in the Hugoton Field could cause the major companies operating there to consider moving to other parts of the country for gas markets where prices and taxing structures are more attractive. On February 20, a news article in the Hugoton Paper verified Mr. Nordling's concern when Mobil announced plans to cut back production and exploration. There is still concern that other major companies operating in the Hugoton Field will follow suit.

We ask that you give very serious consideration to the economic impact of a 45 mill state-wide levy which would increase the tax burden even more on the oil and gas industry in Kansas. We would urge you to be extremely careful in developing any school finance scheme that separates the privilege of spending the money from the responsibility of raising the taxes to pay for it. There is always a loss of efficiency when the people spending the money view it as free money from some where else, whether it be Federal aid, State aid or aid from Southwest Kansas.

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We need only to think back a decade to the severance tax debates when we were told that this free money from the wealthy Oil & Gas Industry would solve all our problems. It was going to pay for our schools and build roads at no apparent cost to the average tax payer. I was a member of the House of Representatives at that time from a district with practically no Oil or Gas. I still could not support a severance tax, because I knew that we couldn't depend on it as a stable source of revenue for funding all these projects. And once the projected revenue was built into the various budgets there would be no way to turn back the clock. After I retired the severance tax was passed and my fears were soon realized. Many of you have had to face several major tax increases since the severance tax was passed.

I would urge you to oppose any state-wide levy at this time because it could not possibly work as long as we have so many problems with state-wide appraisals. We must have a system that keeps the responsibility for and control of education at the local level.

Thanks for the opportunity to speak to you about this important issue.

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STATEMENT OF
BERNARD E. NORDLING, EXECUTIVE SECRETARY
SOUTHWEST KANSAS ROYALTY OWNERS ASSOCIATION
HUGOTON, KANSAS 67951

February 13, 1992

To the Honorable Members of the House Education and Taxation
Committees.

INTRODUCTION

Madam Chairperson, Mr. Chairman,
Ladies and Gentlemen:

My name is Bernard E. Nordling of Hugoton. I am
Executive Secretary of the Southwest Kansas Royalty Owners
Association. I am appearing on behalf of members of our
Association and on behalf of Kansas royalty owners in opposition to
H.B. 2891 and H.B. 2892 providing for a statewide tax levy of 45
mills to be used for school finance.

BACKGROUND INFORMATION

Our Association is a non-profit Kansas corporation,
organized in 1948, for the primary purpose of protecting the rights
of landowners in the Hugoton Gas Field. We have a membership of
over 2,400 members. Our membership is limited to landowners owning
mineral interests in the Kansas portion of the Hugoton Field -
lessors under oil and gas leases as distinguished from oil and gas
lessees, producers, operators, or working interest owners.

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For those of you who are not familiar with the Hugoton Gas Field, it covers parts of 11 southwest Kansas counties, including Seward, Stevens, Morton, Stanton, Grant, Haskell, Finney, Kearny, Hamilton, Wichita and Gray. It extends through the Oklahoma Panhandle into Texas. The Hugoton Field runs 150 miles north and south and 50 miles east and west and is one common source of supply.

According to information furnished by the Conservation Division of the Kansas Corporation Commission, as of December 31, 1991, the Kansas portion of the Hugoton Field has 5,480 producing gas wells encompassing producing 2,654,844 acres. Production is from a depth of between 2,500 and 2,800 feet. Of the 5,403 wells in the Hugoton Field, 1,217 are infill wells, or second wells producing from the shallow Hugoton pay.

Lying within the confines of the Kansas portion of the Hugoton Field is another large gas field - the Panoma Council Grove Gas Field. It has defined limits of approximately two million acres, producing gas from a formation lying immediately below the Hugoton pay at a depth of between 2,800 and 3,100 feet. The latest Kansas Corporation Commission figures show 2,341 Panoma Council Grove wells encompassing 1,474,082 producing acres.

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PRESENT TAX BURDEN ON KANSAS ROYALTY OWNERS

In understanding our opposition to a statewide school levy, it might be helpful for members of your honorable committees to understand the present taxing structure on minerals and oil and gas production in Kansas. Mineral and royalty owners in Kansas are paying four types of taxes on minerals and oil and gas production:

- (a) Oil and gas personal property (ad valorem) taxes;
- (b) Taxes on minerals in place;
- (c) State severance tax of 7 per cent net of the gross value on gas and 4.33 per cent net of the gross value on oil; and
- (d) Conservation levy of 4.3 mills on gas and 13.5 mills on oil assessed on production (helps pay administrative costs of the Kansas Corporation Commission).

Both taxes listed under (a) and (b) are paid through the local county treasurer's office. Taxes listed under (c) and (d) are paid on the state level and are listed on monthly royalty statements and deducted from monthly oil and gas royalties.

STATE SEVERANCE TAX BURDEN

The state severance tax is already taking a heavy toll on this area of the state as shown by the following mineral tax revenue raised by the state severance tax from the following southwestern Kansas counties for the period from 1983 through 1990:

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*MINERAL TAX REVENUE

<u>County</u>	<u>1990 Calendar Year</u>	<u>Cumulative 1983-1990</u>
Finney	\$ 4,214,303.00	\$ 24,403,171.00
Ford	226,457.00	2,073,008.00
Grant	11,035,195.00	47,373,012.00
Gray	112,000.00	1,024,246.00
Greeley	516,527.00	5,333,410.00
Hamilton	758,542.00	4,551,962.00
Haskell	4,325,498.00	22,888,788.00
Kearny	6,050,146.00	40,972,348.00
Lane	601,441.00	6,445,505.00
Meade	1,536,830.00	11,232,489.00
Morton	5,526,925.00	34,521,635.00
Scott	116,843.00	904,431.00
Seward	4,223,840.00	27,356,217.00
Stanton	1,452,618.00	12,122,157.00
Stevens	17,286,624.00	73,575,446.00
Wichita	<u>44,318.00</u>	<u>276,656.00</u>
Southwest Kansas Total	\$58,028,107.00	\$315,054,380.00
State Total	\$87,460,587.00	\$659,734,635.00

These 16 Southwest Kansas counties, out of a total of 105 counties in the state, bore 2/3rds of the state severance tax burden for 1990. Another way to explain this heavy tax load is to convert it into a mill levy. For Stevens County, for example, the state severance taxes of \$17,286,624.00 taken from the county for state use in 1990 is the equivalent of a 57 mill levy.

*The above mineral tax revenue information was obtained from the Kansas Department of Revenue.

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SURVEY CONDUCTED TO DETERMINE TOTAL TAX BURDEN ON
SOUTHWEST KANSAS ROYALTY OWNERS

A survey is presently underway by the Southwest Kansas Royalty Owners Association to determine the present total tax burden placed on royalty owners in southwest Kansas. The survey is being conducted to show the percentage of gross royalty income being paid in ad valorem and state severance taxes. Over 500 SWKROA members have responded to date. The results of the study reveal the present tax burden on our members, county by county:

Percentage of Gross Income Paid in Taxes
In Hugoton Field Area

<u>COUNTY</u>	<u>RANGE</u>		
	<u>Low</u>	<u>High</u>	<u>Average</u>
Finney	12.6%	39.1%	21.83%
Grant	9.0%	26.4%	14.20%
Hamilton	12.6%	32.9%	21.00%
Haskell	9.2%	35.1%	13.66%
Kearny	9.1%	19.5%	12.03%
Morton	9.1%	33.8%	13.64%
Seward	12.1%	29.4%	19.85%
Stanton	9.0%	25.9%	13.74%
Stevens	9.1%	30.9%	11.44%

The additional tax burden of a statewide school tax levy of 45 mills on school districts within the southwest Kansas area would be confiscatory and grossly unfair. This burden under the originally proposed school finance plan was computed as follows:

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ADDITIONAL TAX BURDEN UNDER THE ORIGINALLY
PROPOSED 45-MILL SCHOOL FINANCE PLAN

Hugoton	\$6,337,000.00
Moscow	2,093,000.00
Rolla	1,547,000.00
Sublette	2,405,000.00
Ulysses	3,105,000.00
Satanta	709,000.00
Elkhart	224,000.00

MISCONCEPTION AS TO THE PERSONAL WEALTH OF ROYALTY OWNERS

There is a misconception that the average royalty owner is rolling in wealth. The Hugoton Gas Field has been in existence since the 1920's and all the original royalty interests have gone through several estates. The royalty interests in each estate are usually divided among several heirs. Consequently, by now, there are thousands of Hugoton Field royalty owners, most of them owning only small fractional royalty interests. In other words, there are many royalty owners throughout the state who will be adversely affected by the proposed statewide school levy.

Many of our members are also elderly persons receiving social security benefits and depending on gas royalty income to supplement their social security benefits. Increased taxes are of deep concern to them, as evidenced by their response to our survey conducted to determine their present tax burden, which survey is referred to above.

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IMPACT OF TAXES ON NATURAL GAS INDUSTRY IN HUGOTON AREA

In 1989, a study of the oil and gas industry in Kansas was conducted by Arthur D. Little, Inc., for Kansas, Inc. The study revealed there are significant regional variations in the tax burden within the state on the oil and gas industry. The study acknowledged the importance of the Hugoton Field area in Kansas and made comparisons of the tax burden on the Hugoton area with the rest of the state.

According to the study, in 1988, the Hugoton area accounted for 11% of Kansas oil production and 83% of its gas production. Relatively little of this production was exempt from severance taxes. As a result, the total severance tax burden on the value of production was considerably higher in the Hugoton Field - 6.8% versus 3.0% for the rest of the state. Similarly, Hugoton area ad valorem taxes as a percentage of gross production revenues were higher than the rest of the state - 6.9% versus 4.2%.

The Arthur Little study also revealed that the combined tax burden (severance and ad valorem) for the Hugoton area totalled 13.7% of revenue versus 7.2% for the rest of the state. Obviously, the Hugoton Field area is already paying more than its fair share of the tax burden on oil and gas production.

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IMPORTANCE OF NATURAL GAS INDUSTRY TO KANSAS ECONOMY

Kansas is ranked sixth among the natural gas producing states, and the importance of encouraging natural gas production in the state should be obvious. In fact, the 1991 Kansas Legislature, through Senate Concurrent Resolution No. 1626 mandated the appointment of a Commission on Natural Gas Policy to, among other things, encourage natural gas production in the state.

The resolution begins with the following statements:

"WHEREAS, natural gas is one of the major resources of the state of Kansas, the waste of which seriously impairs the economic condition of present and future generations of Kansas; and

WHEREAS, Kansas natural gas reserves are presently being produced and sold in the interstate market at a discount to alternate fuels and at prices which may be below the cost to find and develop new natural gas reserves in the state; and

WHEREAS, many of the natural gas producing states of the United States are taking action to design and establish state energy policies and are actively participating in the formulation of a natural energy policy which will have a critical impact on the natural gas industry of the state of Kansas; and

WHEREAS, it is necessary and desirable for the State of Kansas to work with other natural gas producing states to establish effective state and national energy strategies which promote the production and use of natural gas in an orderly manner and at a price that reflects the fair value of this resource....."

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I am a member of that commission and we have been meeting since October to develop recommendations to the Governor and the Legislature on the steps needed to be taken to encourage natural gas production and use within the state.

One of the top priorities of the Kansas Commission on Natural Gas Policy is to seek a workable solution to the already heavy tax burden on the natural gas industry. To add to the problem with a statewide school levy is in direct conflict with the legislative mandate.

FEAR OF LOSING PRESENT GAS MARKET TO OTHER STATES

The natural gas industry throughout the United States has been a depressed industry for several years, with mild winters and the "gas bubble." According to the most recent figures from the Natural Gas Clearing House, Inc., an independent natural gas marketing firm from Houston, Texas, the average natural gas spot market price for February, 1992 is \$1.00 per MMBtu, the lowest price in seven years. By comparison, the average spot market price a month ago was \$1.61 per MMBtu. The significance of this information is that low gas prices could dramatically impact Kansas natural gas valuations for tax purposes.

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For years, the major gas companies operating in the Hugoton Gas Field have used the Field as a storage reservoir and historically have not taken their monthly allowables, resulting in a tremendous amount of underproduction over the years. Instead, the companies have gone to other areas of the country for their gas supplies where they had "take or pay" obligations at higher gas prices.

If the Kansas Legislature sees fit to add to an already heavy tax burden on the natural gas industry, there is nothing to keep the gas companies from moving to other parts of the country or world for their gas markets where prices and taxing structures are more attractive, resulting in the continued use of the Hugoton Field for storage.

ADDITIONAL TAX BURDEN WOULD HAVE IMPACT ON INFILL DRILLING

Infill drilling (the drilling of a second Hugoton pay gas well on each 640 acre unit), inaugurated by the Kansas Corporation Commission after extensive hearings in 1987, has given a shot in the arm to the Kansas economy with increased drilling activity and increased natural gas reserves.

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Slightly more than one-fourth of the infill wells have been drilled to date on approximately 4,200 Hugoton gas units. With low natural gas prices and increased taxes, we are very much concerned that major companies operating in the Field will concentrate their drilling activities in other parts of the country and world.

ADDITIONAL REASONS FOR OPPOSING STATEWIDE SCHOOL LEVY

Following is a list of additional reasons for our opposition to a statewide school levy:

1. Loss of local control of education by local school districts in violation of Article 6, Section 5 of the Kansas Constitution which provides: "Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards...."

2. There has been no legal determination by a court of competent jurisdiction that the present state school finance plan is unconstitutional. The legislature should not be panicked into making a hasty decision on such an important issue for the primary purpose of granting temporary property tax relief.

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3. Factors to be considered in determining "equal education" should not be limited to a money factor only. Equal opportunity for education should also be a factor.

4. If wealth of a district is to be considered as a factor in determining equal education, the wealth of a district should include the value of tax exempt property in determining the amount of state aid paid to a school district. Intangible property should also be considered as a source of wealth, along with income.

5. Limiting "equal education" to a money factor would force many rural school districts to close. This in turn would dry up smaller communities in the state, forcing citizens to move to urban areas within or without the state. The economic impact on the state would be dramatic.

6. The cost of administering a statewide school program from Topeka would be prohibitive.

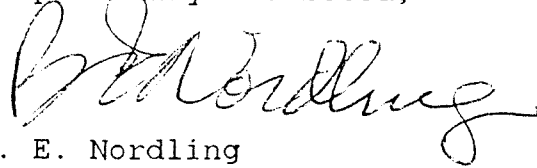
7. Cities and counties in the Wichita, Hutchinson, Topeka and Kansas City area have elected to grant tax exemptions to encourage industries to come into their communities. We have no problem with their decision to do so. However, we do object to having to pay taxes to support their school systems when the wealth is there for them to take care of their own needs.

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Thank you for this opportunity to appear before your honorable committees.

Respectfully submitted,



B. E. Nordling
Executive Secretary
SOUTHWEST KANSAS ROYALTY
OWNERS ASSOCIATION

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