

Approved June 26, 1992
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

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

1:00 ~~am~~/p.m. on Tuesday, April 7, 1992 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Mr. Ben Barrett, Legislative Research Department
Mr. Chris Courtwright, Legislative Research Department
Ms. Avis Swartzman, Mr. Don Hayward, Revisors of Statutes
Mr. Dale Dennis, Assistant Commissioner of Education
Mrs. Millie Randell, Committee Secretary

Conferees appearing before the committee:

Senate Substitute for House Bill No. 2892 - School district finance and quality performance act.

After calling the meeting to order, Chairman Joseph C. Harder announced that the purpose of the meeting is for the Committee to discuss and act upon Senate Substitute for HB 2892.

Ms. Swartzman, staff, furnished the Committee copies of the Transcript of Pretrial Proceedings relating to Consolidated Case No. 91-CV-1009 involving the Plaintiffs vs. the State of Kansas and the Kansas State Board of Education as they transpired before the Honorable Terry L. Bullock, Judge of Division VI of the District Court of Shawnee County, Kansas, at Topeka, on April 6, 1992. (Attachment 1)

The Chair referred Committee attention to the State Financial Aid section on page 1 of the brief that had been prepared by the Legislative Research Department for the Committee meeting of Monday, April 6, at 4:30 p.m. He called for Committee discussion regarding the base state aid per pupil.

Mr. Dale Dennis, staff, explained the comparison of the linear weighting component under the House version of House Bill 2892 with Computer Printout L92D5, the provisions of which were proposed in an amendment to Senate Substitute for HB 2892 made by Senator Parrish and adopted on the Senate floor on Saturday, April 4. (Attachment 2) Mr. Dennis noted that the weighting factor component ceases to exist at 1,500 students in Computer Printout L92D5.

Senator Kerr, explaining the reasons for his proposal, suggested that the next plan the Committee submits to the Senate Committee of the Whole should be based upon the original school district finance plan as passed by the House of Representatives. Senator Kerr offered a school finance proposal which included: 1) the House version of the low enrollment weighting factor, 2) funding the school finance plan with the original amount proposed by the Senate, \$320 million (which includes \$20 million for the growth factor and income tax rebate), 3) base state aid per pupil of \$3,600, and 4) a statewide mill levy based upon, for the first year only, the aforementioned components.

Senator Kerr explained that the purpose for his proposal is to be able to compare it with the amendment proposed by Senator Parrish and adopted on the Senate floor. He expressed particular concern regarding the weighting factor for schools in the 1,500 to 2,000 category. He stated that the weighting factors for at-risk, transportation, and bi-lingual education in his proposal would be the same as those in the Parrish plan.

The Chair called for other requests for computations which members might wish to request of staff.

Senator Langworthy proposed for Committee consideration the inclusion of

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room 522-S, Statehouse, at 1:00 ~~am~~/p.m. on Tuesday, April 7, 1992

an enrollment weighting factor, to be phased out after two years, for construction of new, additional school buildings. She noted inherent costs associated with the opening of new school buildings and suggested weighting factors of .5 for the first year and .25 for the second year. Senator Langworthy also noted a need to provide a cushion for unforeseen, additional costs which might arise.

Senator Steineger, explaining that the at-risk program is funded at below actual cost, moved that the weighting factor for at-risk students be increased from .05 to .10. Senator Steineger pointed out that the weighting factor of .10 would not fully fund the at-risk student, but it would show an intention on the part of the legislature to recognize the constitutional necessity for funding the program at cost. He quoted a staff estimate of \$17.3 million for funding his proposed amendment. Referencing a letter he had received from USD 202, copies of which, stated Senator Steineger, had been distributed to the Committee, he noted that the director of secondary education had stated that at-risk students are being educated to some degree at the expense of the regular students.

Senator Parrish seconded Senator Steineger's motion. The Chair ruled that the motion had carried, and the amendment was adopted.

Senator Steineger confirmed that his motion does not change the definition of an at-risk student as presently defined in the bill. He acknowledged that he would support raising the statewide mill levy, if necessary, to fund the increased costs resulting from his amendment.

The Chair announced that he would recess the meeting for 15 minutes while awaiting computations requested of staff.

After reconvening the meeting, the Chair called upon staff to present its report to the Committee.

Mr. Barrett, staff, reported that the computations made were based upon the following premises: Based upon a weighting factor of .10 for the at-risk student, approximately \$17.3 million was added to the base budget authority; base state aid per pupil is \$3,600; based upon the amendment adopted in the Senate on Saturday, April 4, the cash-on-hand carried forward was about \$115.2 million in the first year, the same amount as shown in the Parrish proposal.

Mr. Barrett said that based upon the above premises, a 38-mill levy rate was required, and this rate was used in the multi-year projections.

Senator Langworthy, noting the lack of statistics for the cost of educating an at-risk child, moved that the Committee reconsider its earlier action which increased the weighting factor for an at-risk child to .10. Senator Karr seconded the motion, and the motion carried.

Senator Steineger moved that the weighting factor for at-risk students be increased from .05 to .075. Senator Parrish seconded the motion. The Chair ruled that the motion had carried and the amendment was adopted.

The Chair called Committee attention to the fact that Senate Substitute for HB 2892 contains two clauses relating to severability.

Ms. Swartzman, staff, clarified that in actuality a court will enact the provisions of a severability clause whether or not the clause is contained in the act. She further explained that severability clauses are inserted into politically sensitive acts as a matter of policy.

Senator Frahm moved to amend Senate Substitute for HB 2892 by striking, on page 45, the severability clause beginning on line 37, "New Sec. 35. (a) "If any clause, paragraph, subsection or section of this act shall be

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held invalid or unconstitutional, it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section. Senator Kerr seconded the motion.

Senator Walker made a substitute motion to amend Senate Substitute for HB 2892 by striking the non-severability clause on page 87, beginning on line 5, "(Sec. 28 (63). If the provisions of this act relating to the financing of school districts and the distribution of funds therefor are held to be invalid or unconstitutional by any court, it shall be conclusively presumed that the legislature would not have enacted those provisions of this act providing for the levy of taxes without such invalid or unconstitutional provisions)." Senator Karr seconded the motion, but the Chair ruled that the amendment was not adopted.

When the chair reverted Committee attention to the primary motion made by Senator Frahm and seconded by Senator Kerr to strike the severability clause on page 45, beginning on line 37, New Sec. 35., as stated previously, the Chair ruled that the motion had carried and the amendment was adopted.

The Chair announced that the Committee would reconvene in room 519-South upon adjournment of the Senate, and he recessed the meeting.

SENATE EDUCATION COMMITTEE

TIME: 1:00 p.m. PLACE: 522-S DATE: Tuesday, April 7, 1992

GUEST LIST

NAME

ADDRESS

ORGANIZATION

| <u>NAME</u> | <u>ADDRESS</u> | <u>ORGANIZATION</u> |
|-----------------------|----------------|----------------------|
| George Goebel | Topeka | AARP-SLC-CCTF |
| Bill Musick | Minneapolis | ST BLD ED |
| Ledislav M. Hernandez | Topeka | Gov. Office |
| Neil Libes | Topeka | KLA |
| Patrick Hurley | Topeka | Magill Assoc. |
| Helen Stephens | Topeka/PV | USD 229 |
| Jim Ailey | " | XCCG = Assoc |
| Jim Yonally | OP | JM #512 |
| Barbara Cole | Topeka | KNEA |
| Chuck Tilman | Topeka | KNEA |
| Craig Grant | Topeka | ITNEA |
| Ray Cole | Topeka | KNEA |
| Ann Burnett | Topeka | USD 501 # |
| Reed W. Davis | Topeka | KDOT |
| Bruce Gordon | Topeka | KANSAS NEA |
| Jim Keele | PAOLA | BKE |
| KAREN FRANCE | TOPEKA | KAIC |
| DUD GRANT | " | KCL |
| Kevin Cole, Jr | Topeka | for Comm of ATTS |
| Ken Baker | " | 4th Enrollment USA's |
| GERALD HENDERSON | TOPEKA | USA of KS |
| John M. ... | Topeka | OK ... |
| HAROLD PITTS | " | AARP-CCTF |
| Dan Haas | Overland Park | KCPK |

SENATE EDUCATION COMMITTEE

TIME: 1:00 p.m. PLACE: 522-S DATE: Tuesday, April 7, 1992

GUEST LIST

NAME

ADDRESS

ORGANIZATION

| NAME | ADDRESS | ORGANIZATION |
|-----------------|------------|--------------------------|
| Curt Carpenter | Great Bend | West Plains Energy |
| Jacque Dakes | Topera | SOE |
| Bob Corkins | " | KCCI |
| Robin Nichols | Wichita | OSD 259 |
| John Koepke | Topeka | KHSB |
| M. Hawer | " | Cy-Jury |
| Rea Wilson | O.P. | Sun Newspapers |
| Christy Lewings | Oswatomie | Clarke National Ed. Assn |
| Don Kinsey | OSAWATOMIE | UTU |

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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION 6

ROBERT MOCK, et al.,)
)
Plaintiffs,)

vs.)

Case No. 90-CV-0918

STATE OF KANSAS AND KANSAS)
STATE BOARD OF EDUCATION,)
)
Defendants)

LLOYD HANCOCK, et al.,)
)
Plaintiffs,)

vs.)

Case No. 90-CV-1795

ROBERT T. STEPHAN, et al.,)
)
Defendants.)

NEWTON UNIFIED SCHOOL)
DISTRICT #373, et al.,)
)
Plaintiffs,)

vs.)

Case No. 90-CV-2406

STATE OF KANSAS, et al.,)
)
Defendants.)

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1 UNIFIED SCHOOL DISTRICT #259)
 2 SEDGWICK COUNTY, STATE OF)
 3 KANSAS,)
 4)
 5 Plaintiffs,))
 6)
 7 vs.)
 8)
 9 UNIFIED SCHOOL DISTRICT #202)
 10 WYANDOTTE COUNTY, et al.,)
 11)
 12 Intervenor,) Consolidated Case No.
 13) 91-CV-1009
 14 vs.)
 15)
 16 THE STATE OF KANSAS, ET AL.,)
 17)
 18 Defendants.)
 19)
 20)

21 TRANSCRIPT OF PRETRIAL

22 PROCEEDINGS had before the Honorable Terry L.
 23 Bullock, Judge of Division VI of the District Court
 24 Of Shawnee County, Kansas, at Topeka, Kansas on the
 25 6th day of April, 1992.

26 APPEARANCES

27 The Plaintiffs, Robert Mock, et al., appeared
 28 Mr. Arvid V. Jacobson of Jacobson & Jacobson, 526 West
 29 Sixth Street, P.O. Box 1167, Junction City, Kansas
 30 66441-1167, and Mr. James P. Lugar of Lugar, Harris
 31 & Sheeley, 8833 State Avenue, P.O. Box 12126, Kansas
 32 City, Kansas 66112.

33 The Plaintiffs, Newton Unified School District
 34 #373, et al., appeared by Mr. Alan L. Rupe, Attorney
 35 At Law, 155 North Market, Suite 505, Wichita, Kansas

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67202, and Mr. John S. Robb of Somers, Robb & Robb,
P.O. Box 544, Newton, Kansas 67114.

The Plaintiffs, Lloyd Hancock, et al, appeared
by Mr. Fred W. Rausch, Jr., Attorney At Law, 220 S.W.
33rd Street, Suite 201, Topeka, Kansas 66611.

The Plaintiff, Unified School District #259,
appeared by Messrs. Tom Docking and Robert T. Coykendall
of Morris, Laing, Evans, Brock & Kennedy, 200 West
Douglas Avenue, Wichita, Kansas 67202-3084.

The Plaintiff, Olathe School District, appeared
by Mr. Dirk Hubbard of Payne & Jones, Chartered, 11000
King Street, Building C, Suite 200, P.O. Box 25625,
Overland Park, Kansas 66225-5625.

The Defendants, State of Kansas and Kansas State
Board of Education, appeared by Mr. Dan Biles of Gates
& Clyde, Chartered, 10990 Quivira, Suite 200, Overland
Park, Kansas 66210, and Mr. Rodney J. Bieker, Director
of Legal Services, Kansas Department of Education,
120 East 10th Street, Topeka, Kansas 66612-1103.

The Defendant, State of Kansas, appeared by
Mr. Carl A. Gallagher, Assistant Attorney General,
Office of the Attorney General, Kansas Judicial Center,
2nd Floor, Topeka, Kansas 66612-1597.

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The Defendant, U.S.D. 244, appeared by
Mr. Tom Hamill of Perry & Hamill, 4650 College Blvd.,
Overland Park, Kansas 66211, and Mr. Bryan K. Joy,
Attorney At Law, P.O. Box 209, Burlington, Kansas
66839.

WHEREUPON,
the following proceedings
were had and done to wit:

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I N D E X

Certificate-----23

Joseph R. Martinez, CERTIFIED SHORTHAND REPORTER
 DIVISION VI
 THIRD JUDICIAL DISTRICT

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THE COURT: Good afternoon. The Court has called the consolidated school cases for pretrial conference. Mr. Martinez has the full caption.

Would you make your appearances, please?

MR. JACOBSON: Arvid Jacobson and James Lugar appearing on behalf of the Mock plaintiffs.

MR. RUPE: Alan Rupe and John Robb on behalf of the Newton plaintiffs.

MR. RAUSCH: Fred Rausch on behalf of the Hancock plaintiffs.

MR. DOCKING: Thomas Docking and Robert Coykendall on behalf of U.S.D. 259, Wichita.

MR. HUBBARD: Dirk Hubbard on behalf of U.S.D. 233.

MR. BILES: Dan Biles and Rod Bieker on behalf of the State Board of Education.

MR. GALLAGHER: Carl Gallagher on behalf of the State of Kansas.

MR. HAMILL: If it please the Court, Tom Hamill and Bryon Joy on behalf of U.S.D. 244. And we have a motion to intervene filed.

THE COURT: Thank you. Perhaps it would be well to review the history of these cases as a preparatory matter.

The first challenge to the School Finance Act

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was filed January 19th, 1990. So, it's now been two years and three months since the first of these cases was filed, and it has been six months since our last hearing, which was on October 14th. I believe all of you, or almost all of you, were in attendance at that time.

These consolidated cases, as you know, have been delayed since October 14th at the direct request of the Governor and both Houses of the Legislature in order to allow time prior to Court review for the consideration of new school finance legislation during the regular session of this sitting of the Legislature.

I know only from press accounts, but apparently the following has occurred since then: First, the Governor appointed a special task force of persons from her office and both legislative houses and the State Board of Education to draft a proposal. That proposal was indeed drafted and the Governor made school finance reform a major part of her state of the State message and budget. Thereafter the House of Representatives has passed a bill which would totally revise the school finance system for the State. And the Senate is now considering its response to the House Bill, as I understand it, perhaps even as we speak.

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From these developments it is obvious to the Court that many people have worked very hard so far to try to resolve this problem legislatively and the Court remains optimistic that the democratic process will function as it is designed to, and that further consideration of these cases judicially may be actually unnecessary. That certainly was the hope of all of us on October 14 when these cases were delayed. As Shakespeare might say, "A consummation devoutly to be wished."

Of course, if the legislative process yields a constitutional finance plan, our work here is finished, and nothing would make this Court happier, and, I suspect, counsel as well. If, however, the legislative process should fail to enact a constitutional plan into law, then the Court must be prepared to proceed, given the coming of Summer and the attendant difficulties in scheduling, not to mention the school budget deadline. And, by the way, do you have that date, any of you? What is the Summer deadline for school budget?

MR. RAUSCH: August 25th.

THE COURT: I knew it was August. I didn't have the exact date, thank you. In any event, in view of these coming deadlines, I think it's absolutely

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critical that we be prepared.

Counsel, have I accurately summarized where we stand at this moment?

MR. RUPE: In that connection, the Plaintiffs have met and have a proposed schedule, if the Court would be interested. I think Tom has prepared a listing of what we at least agreed to supplement or suggest to the Court we follow.

MR. DOCKING: Your Honor, this is the only one that has been signed by all of the counsel for the Plaintiffs, and I will leave an extra copy for the clerk.

THE COURT: Thank you.

MR. DOCKING: Would it please the Court if I could say a word or two about the document?

THE COURT: You may indeed. It's ironic how your dates are so very similar to mine, with one exception.

MR. DOCKING: No kidding. I mean--- Excuse me.

THE COURT: That's correct. We are not kidding. And the date that I have different from yours is the last one, and my date is June 1.

MR. DOCKING: Your trial date would be June 1?

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THE COURT: Yes. I think everything else
can work.

MR. DOCKING: Thank you.

THE COURT: What is your estimate as to
trial time?

MR. RUPE: We talked about that this morning.
Everything from-- Well, we think it can be tried
in a week to two weeks time-frame.

THE COURT: What if you say everything only
once?

MR. RUPE: Then it will be one week.

THE COURT: I will be very attentive, I
promise you.

All right, I am agreeable with these dates
suggested by counsel, and they are as follows: That
the parties submit document productions by May 1;
that all parties supplement or produce final expert
reports by May 15th; that expert depositions occur
between May 16th and May 30th. Now, that's going to
be tight, but I think you can handle it. And then
trial will commence at 9 a.m. on June 1st.

All right, now, so that-

MR. BILES: Your Honor, our feeling is
that these dates-- I really think to do this case
properly we need to move back all the dates by about

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1 three weeks, with trial commencing July 6th.

2 Our reasons really begin with a notion of what
 3 happens with the Legislature. We are not trying to
 4 delay this thing unnecessarily. It's-- There is a
 5 little bit of a balance between how much lawyer
 6 involvement should be going on when there is an optimis-
 7 tic prospect that the Legislature is going to come up
 8 with something. Plus, after they come up with it,
 9 it seems to me that we need a little bit of regrouping,
 10 because we may have a different set of plaintiffs, and
 11 I don't want to commit to any of these dates with a
 12 new-- with a completely new law and perhaps completely
 13 new plaintiffs. That might create a different scheduling.

14 Based on what we're trying to accomplish here,
 15 the problem that we foresee is that the last date that
 16 the Legislature will be around is the 6th to the 8th
 17 of May. And that's sort of a worst case scenario
 18 based upon events of last year and that's not giving
 19 the Governor any time to consider whether to veto or
 20 not. I'm taking that out of the equation. I'm not
 21 saying that we wait until the Governor decides, but I
 22 think we need to wait until we have a bill where there
 23 will be computer runs. Because, if we don't, they
 24 are going to be back supplementing their reports all
 25 the way up to trial. And this is complicated enough

1 that we would like a little bit of leeway with respect
2 to-

3 THE COURT: You don't think the Legislature
4 will have the computer runs when they-

5 MR. BILES: They will, Your Honor, but
6 they need to act. What we're proposing would be to
7 resume the document production which we suspended
8 last fall. And we can begin that day, and we have
9 a list of documents that the other side has not provided
10 because of the way things went last fall. We have and
11 we are prepared to go with that and give them until
12 even the 15th of May to produce those documents. We'll
13 move that date up, if the Court would like.

14 After that I think we ought to anticipate that
15 the experts would get the new school finance plan and
16 get the computer runs-- sometime the week of May 4th,
17 and then we can start. Whenever the Plaintiffs say
18 they can have their expert reports to us, we would like
19 two weeks to analyze them and take their depositions
20 and then take our guys' depositions, get documents
21 ready, get the witnesses put together, and I think
22 that takes the month of June. And I will also advise
23 the Court, and I realize that this is an important
24 case, but I'm already scheduled for a two-week jury
25 trial that will go beginning on the 22nd of June.

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Our collective wisdom was that if we started this trial on the 6th of July we would be done by the end of the week, depending on whether we have other intervening school districts and how the Court addresses that issue, and then the Court has time to go and we can go from there. I'm afraid anything else really has us in an unfair position on the defense side, and we really need some time to ponder this. So, I appreciate the Court had the wrong impression about this listing and the scheduling matters, but I mean- I would almost go with what they have got, if they will say their guys can't supplement or correct their reports after they produce them. Because they are not going to have the date, you know. But we can't do that, so I really think that we have to put a realistic schedule here, and I think the one that we're proposing is realistic and gets us to trial in plenty of time to address the matter before us.

MR. RUPE: We have conferred, and we disagree. We think the schedule that we have proposed is reasonable. We're not sure what we're waiting on. There's nothing adopted by the Legislature and we're ready to go to trial June 1.

THE COURT: My concern, and the reason I suggested the dates that I came by, or have suggested

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independantly of your agreement, which I wasn't aware of until you handed it to me, as I indicated previously, is that if the Legislature and the Governor gives us a constitutional plan, then none of this is of any consequence whatsoever. We're out of business, and gladly. If not, then we have to anticipate the worst case that might occur. And my thoughts about it are these: If the decision- And this is, again, a worse case. Not pre-judging. We have not heard a shred of evidence. But if the decision should be adverse to the State, a June 1 trial and an early decision would permit time for a special sitting of the Legislature, should the other branches of government elect to take that course, prior to the August filing requirement for school budgets. If we wait and try the case in July I don't see how that would be possible. And my concern-- and I don't mean to imply that no one else is concerned, but my concern is the children. And there isn't any question but what this case could result in a terrific disruption of our educational process, and it's my intent to do what I can to limit the impact of that adversely on the children.

However, we'll pass that for the moment. Did I cut anyone off? I didn't mean to-

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MR. RAUSCH: Your Honor indicated that if the Legislature would adopt a bill and the Governor sign it that that would end the matter. At least on behalf of the Hancock cases we may want to go ahead with our request for money damages from the State. We feel that the failure of the Legislature cost our school district money and we would like the opportunity to seek those funds.

THE COURT: You certainly may include in the record whatever you want for the Supreme Court to take into consideration on that basis, but, as you know, I have ruled.

MR. RAUSCH: I understand.

THE COURT: All right, in considering our preparation for trial you do have the benefit, which is not typical in the ordinary case, but in this case, because of the procedures we follow, you have the benefit of the Court's decision of October 14th. That should be of considerable help in focusing the evidence at trial.

I want, in that connection, to re-emphasize a couple of points that might be helpful in terms of trial preparation. First, in terms of focus, the Court has held, as you know, that this case is first and foremost about children and their constitutionally

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1 protected guarantee of an equal educational opportunity.
2 Therefore, the evidence in which the Court will be
3 most interested will be the impact on those children,
4 whatever legislation we ultimately have to review.

5 Substantively, the Court has made two fundamental
6 rulings: One is that the Constitution requires that
7 the total funds provided by the Legislature must in
8 the aggregate be suitable or adequate-- or pick any
9 word you like, but one of our cases uses the term
10 "quality", to provide a basic education for our chil-
11 dren. And so that's first and foremost.

12 Now, I have understood from counsel's representa-
13 tions in the past that that is not going to be an issue
14 here, at least as it's seen now. But that's the first
15 requirement of the Constitution. And the second is
16 that, whatever those total dollars are that are provided
17 for education, that they must be divided fairly among
18 the children.

19 Now, in that connection, you will recall that
20 the Court did not hold that equal dollars per pupil
21 is required, but the Court has held that that's where
22 we begin, and that any per pupil differences should
23 be justified by legislatively articulated reasons
24 premised on differences in educational costs incurred
25 in providing equal educational opportunities.

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Now, if your evidentiary preparation can concentrate on the evidence that relates to these critical factors, it would be most helpful to the Court. I will not, of course, prevent the inclusion in the record of other relevant information which you may believe important either for my decision or for review by the Supreme Court on ultimate appeal, is there is one, but those are the points that I have already held in my opinion and I want to emphasize those are the points on which the evidence will be most crucial, as I see it now.

Further, the Court has indicated in its October 14th decision the remedy that it tentatively preferred in the event that a decision is adverse to the State. And, of course, we don't presume that. In fact, we hope against it. We hope to receive a bill that is constitutional and puts us out of business altogether. But the Court has indicated in it's earlier opinion that the remedy it prefers is that the Court isn't going to write the findings, but instead intends to strike any unconstitutional enactment and enjoin the endorsement of it.

So, if we get that far, and we hope we don't, and if that's the ultimate result, it will be necessary for us to consider the statutes that are involved,

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and there may be a considerable number of them. And I would hope that at some appropriate time that counsel will help me with the research there as to which statutes need to be included in the injunction, and also the form of the language. I welcome counsel's suggestions as to the form of the language of the order.

Now, with the exception of the trial date, are there any matters that we have overlooked? We have covered discovery, I think, and witnesses---

MR. RUPE: Your Honor, the only matter additional would be the pretrial conference order itself, and I think we have all completed pretrial questionnaires, and I think counsel need to circulate that order. But, as I recall, Bob was going to put that together, I think.

THE COURT: All right. Well then, you will make an order and circulate it, confirming what we are doing today?

MR. DOCKING: Yes, Your Honor.

THE COURT: Very good. I regret the inconvenience of the early trial date, but on balance I think I'm satisfied that we must begin, as the Court plans, on June 1st, and we'll all have to work toward that date. And I realize that that isn't

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1 convenient to everyone. It certainly wasn't to me.
2 That's my criminal docket, and I'll just have to deal
3 with that.

4 Well, then, I would like to conclude as I began,
5 first by commending the men and women of the other
6 branches of our government who are laboring so
7 valiantly to resolve this problem in such a way as to
8 avoid court intervention. Such a result will be
9 welcomed by the Court with open arms. A true sample
10 of government at its best. Secondly, with a fervent
11 prayer that the preparations made here today can be
12 joyfully abandoned when that result is achieved.

13 Thank you so much. We will be in recess. Any
14 media questions may be addressed to Mr. Keefover,
15 and I am also available to counsel for their questions.

16 I forgot about the motion to intervene. I had
17 thought that, since those were well briefed, I would
18 like to take those under advisement. Is there anything
19 you would like to add?

20 MR. HAMILL: No, Your Honor. Although
21 we didn't participate in the discussion, those would
22 be agreeable to our clients and we would be able to
23 comply with those.

24 THE COURT: I had previously indicated
25 in a telephone conference with counsel, and I will

1 reiterate today that I welcome briefs amicus from
2 any interested parties, including yours, even if the
3 motion to intervene is not ultimately sustained. But,
4 as I say, I will take those motions under advisement.
5 I want to think a little bit about how the alignments
6 will work out, and I think I really would like to see
7 what happens in the next week or so in that connection.

8 Is there anything else?

9 MR. BILES: Just an idea in terms of
10 scheduling. We have done so well with telephone calls,
11 and I'm a little concerned about things moving smoothly
12 in terms of documents, and perhaps we need the assis-
13 tance of the Court. It seems to me that there are
14 options. I think either one would work, but I think
15 it's your preference as to how to proceed. One option
16 seems to me to be to go ahead and schedule-- Well,
17 perhaps the lawyers getting together after the session
18 here and submitting to you something in, you know, a
19 couple of weeks after having a conference call to see
20 if anyone has problems, and kind of schedule that
21 through. And the other would be just to alert the
22 Court when we have a problem and try to set up from
23 there. I don't really have a preference, but it seems
24 to me that that has worked well in the last few months.

25 THE COURT: Yes, we have excellent lawyers

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in this case. The highest caliber. I have been very pleased with the cooperative spirit that has existed. I see no reason that shouldn't continue. Why don't you gather here after our hearing today and work out some probable time schedules for discovery. If you need the Court's help I am always available, day or night, week end or not.

I would also suggest, Mr. Hamill, that in the short run you might-- Mr. Gallagher and Mr. Biles have indicated if there is any particular evidence that you want, to make sure that's brought before the Court, whether or not you're permitted to intervene, that they would be willing to be helpful in that connection. So, you might want to visit with them.

MR. HAMILL: Pending a ruling, Your Honor, will we be part of the matrix, as far as service is concerned, so we'll know what's going on?

THE COURT: Yes, I think that's fair. Include Mr. Hamill in our list of counsel until you're told otherwise.

MR. BILES: Just one other thing. As I am looking at this schedule, is the Court adopting the Plaintiff's scheduling matters? Because we're supposed to produce our expert reports at the same time they do and I think everyone recognizes that the

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1 defense experts ought to have a little time to scratch
2 their heads over the reports of the Plaintiff, particular-
3 ly since they are being modified. I'm just not sure
4 what the Court's order-

5 THE COURT: Well, let's do this: I'm
6 going to follow the schedule suggested by the Plaintiff
7 with the exception of the trial dates which are modified,
8 but we all understand, as you do, that we have to have
9 a little time in there, and so I'm going to ask the
10 Plaintiffs if you will move up your production relative
11 to experts by a week and then let Mr. Biles have a
12 week or two to react and still do it within our time
13 limit. Working together I think that can be accomplish-
14 ed. Thank you for calling that to my attention.

15 All right, thank you. We'll stand adjourned.
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C E R T I F I C A T E

I, Joseph R. Martinez, Official Court Reporter of Kansas, Third Judicial District, do hereby certify that I reported the foregoing proceedings in machine shorthand and that the preceding 22 pages is a true, full and correct reproduction of my stenographic notes at said time and place taken.

WITNESS my hand and official seal this 7th day of April, 1992.

Joseph R. Martinez
Official Court Reporter
Division Six
Shawnee County Courthouse
Topeka, Kansas 66603

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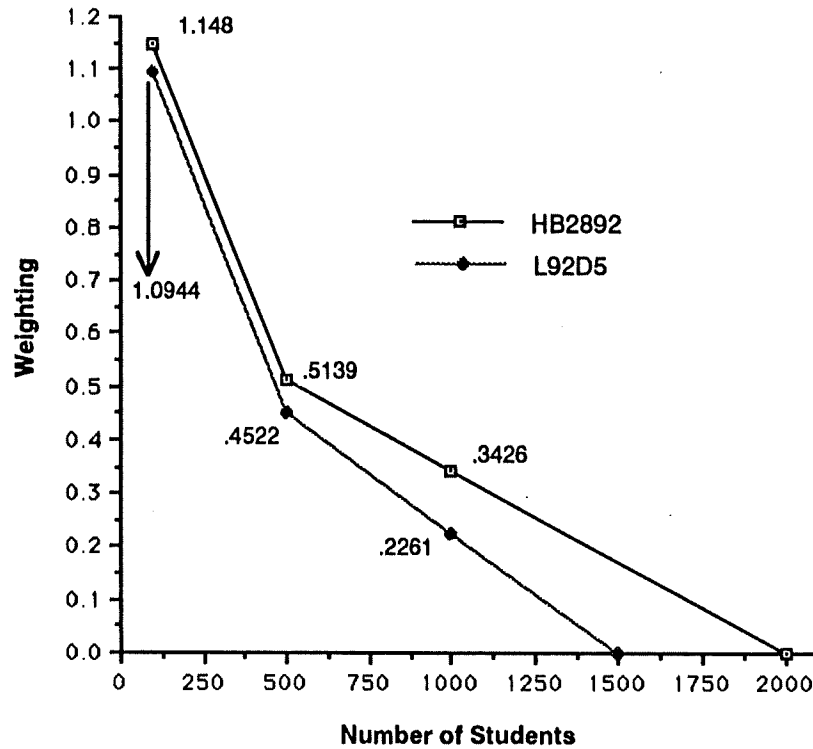
STEPS IN COMPUTING OPERATING BUDGET
 UNDER 1992 HOUSE BILL 2892 AND COMPUTER PRINTOUT L92D5 (SENATOR PARRISH)

EXAMPLE UNIFIED SCHOOL DISTRICT

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| | <u>H.B. 2892</u> | <u>L92D5</u> |
|---|----------------------------|----------------------------|
| 1. <u>Regular Full-Time Equivalent Enrollment</u> | 1,000.0 | 1,000.0 |
| 2. <u>Weighting</u> | | |
| Vocational Education--50 students--3 hours per day 50 students x .5 (3 hours per day) x .5 (weighting factor) | 12.5 | 12.5 |
| Transportation--300 students over 2.5 miles State computed cost per pupil - Base cost = Factor x students \$611 - \$3,625 = .1686 x 300 students | 50.5 | 50.5 |
| Bilingual--40 students--3 hours per day 40 x .5 (3 hours per day) x .2 (weighting factor) | 4.0 | 4.0 |
| At Risk--250 students eligible for free lunches 250 x .05 (weighting factor) | 12.5 | 12.5 |
| Low Enrollment--Based on linear transition See chart on reverse side Using 1,000.0 FTE students, the factor is .3426 x 1000.0 Using 1,000.0 FTE students, the factor is .2261 X 1000.0 | <u>342.6</u> | <u>226.1</u> |
| TOTAL | <u>1,422.1</u> | <u>1,305.6</u> |
| 3. <u>Weighted Enrollment</u> --1,422.1 x \$3,625 | \$ 5,155,113 | |
| 3. <u>Weighted Enrollment</u> --1,305.6 X \$3,615 | | \$ 4,719,744 |
| LOCAL OPTION BUDGET | | |
| 4. <u>Operating Budget</u> Percent Allowed (10% maximum) | \$ 5,155,113 <u>.10</u> | \$ 4,719,744 <u>.10</u> |
| Local Option Budget Maximum | \$ 515,511 | \$ 471,974 |
| 5. <u>State Aid Computation</u> | | |
| U.S.D. Assessed Valuation Per Pupil | \$ 30,000 | |
| 75th percentile Assessed Valuation Per Pupil | \$ 47,076 | |
| Ratio of 75th percentile to Actual | .6373 | |
| State Aid Entitlement Ratio 1 - .6373 | .3627 | |
| Estimated State Aid (.3627 x \$515,511) and (.3627 X \$471,974) | \$ 186,976 | \$ 171,185 |
| 6. <u>Property Tax Levy</u> (\$30 million assessed valuation) | \$ 328,535 | \$ 300,789 |
| 7. <u>Estimated Local Option Budget Mill Rate</u> | 10.95 | 10.03 |

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LOW ENROLLMENT WEIGHTING CHART (HB 2892)

| | |
|----------------|-------------------------|
| 0 - 99.9 | \$7,337 |
| 100 - 299.9 | \$7,337 - 9,665 (E-100) |
| 300 - 1,999.9 | \$5,404 - 1.17 (E-300) |
| 2,000 and over | \$3,415 |

The computer answer, based upon enrollment, is divided by \$3,415

Example

\$5,404 - 1.17 (E-300)
 \$5,404 - 1.17 (1,000 - 300)
 \$5,404 - 1.17 x 700
 \$5,404 - 819

\$4,585 - \$3,415 = \$1,170
 \$1,170 + \$3,415 = .3426

LOW ENROLLMENT WEIGHTING CHART (L92D5)

| | |
|----------------|----------------------------|
| 0 - 99.9 | \$7,337 |
| 100 - 299.9 | \$7,337 - 9.6650 (E-100) |
| 300 - 1,499.9 | \$5,404 - 1.584166 (E-300) |
| 1,500 and over | \$3,503 |

The computer answer, based upon enrollment, is divided by \$3,503

Example

\$5,404 - 1.584166 (E-300)
 \$5,404 - 1.584166 (1,000 - 300)
 \$5,404 - 1.584166 x 700
 \$5,404 - 1109.

\$4,585 - \$3,503 = 792
 792 + \$3,503 = .2261