

Approved: B. Lawrence
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Barbara Lawrence at 9:00 a.m. on January 22, 1997 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Ben Barrett, Legislative Research Department
Carolyn Rampey, Legislative Research Department
Avis Swartzman, Revisor of Statutes
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Ben Barrett, Legislative Research Department

Others attending: See attached list

Chairperson Lawrence called the meeting to order and asked for action on the minutes of January 14 through January 16. Senator Kerr moved the minutes of January 14 through January 16 be approved. Senator Umbarger gave a second to the motion. The motion carried.

The Chairperson called on Ben Barrett, Legislative Research Department, to give the staff review of the Special Committee on School Finance. An attachment was distributed to the committee entitled, "Report of the Special Committee on School Finance to the 1997 Kansas Legislature." (Attachment 1)

Mr. Barrett began by giving the recommendations listed in the Summary and answered various questions from the Committee members.

Mr. Barrett was asked about declining enrollment in school districts. He replied that about half the districts have declining enrollment.

With respect to correlation rates, Mr. Barrett stated the Special Committee recommendation to implement in the 1997-98 school year the two remaining correlation weight steps now scheduled for implementation in the 1997-98 and 1998-99 school years, respectively.

When addressing the at-risk recommendation, Mr. Barrett stated that this has been controversial on how to define at-risk and how to get financial support for it. The recommendation is to increase the at-risk pupil weight from 5.0 percent to 7.5 percent. This exceeds the Governor's budget recommendation of from 5.0 to 6 percent. At-risk students appear to be those children of low socio-economic status. This brought several responses and comments from members of the Committee regarding school lunches, test scores and the criteria used as definition by different entities. It was stated that one of the teacher finalists on the preceding day suggested an at-risk child could be defined as a child at third-grade level, but not reading at third-grade level. Several other definitions were volunteered by members of the Committee.

Dale Dennis, Deputy Education Commissioner, responded to some questions regarding possible abuse of qualifications for free and reduced lunch programs. He responded that federal guidelines are quite clear as to who can and cannot have the lunches; it is all tied to income. There is a lot of pride involved with many parents in getting money together for lunches, so that some families who qualify do not use the option.

One of the Committee members responded that there is not the stigma that there once was with the different colored meal tickets as credit cards are now used.

Mr. Barrett proceeded with the recommendation to repeal the provision of law which permits certain school districts to appeal to the State Board of Tax Appeals for authority to levy a property tax to defray costs associated with commencing operation of a new facility. This led to discussion of the Olathe and Blue Valley School Districts and the justification for the money, when other districts build within budgets without going to

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION, Room 123-S Statehouse, at 9:00 a.m. on January 22, 1997.

the Board of Tax Appeals. After further discussion, it was decided to ask the lobbyist for Blue Valley to make an appearance at the next meeting to clarify several questions associated with the special committee recommendation. This recommendation brings an additional cost for FY 1997 of \$1.2 million.

It was suggested that input from the Maize district would be valuable as the district has grown and new buildings erected. The differences in the situations could be explained to get a clearer picture for the Committee.

Chairperson Lawrence asked Mr. Barrett to continue with the staff review at a later time as it was after 10:00 a.m.

The meeting was adjourned.

The next meeting is scheduled for January 23, 1997.

Report of the
Special Committee on School Finance
to the
1997 Kansas Legislature

CHAIRPERSON: Representative Bill Mason

VICE-CHAIRPERSON: Senator Barbara Lawrence

OTHER MEMBERS: Senators Richard Bond, Christine Downey, Dave Kerr, Lana Oleen, and Doug Walker; and Representatives Clay Aurand, Barbara Ballard, John Ballou, Phyllis Gilmore, Brenda Landwehr, Steve Lloyd, Melvin Minor, Kay O'Connor, Bill Reardon, Ralph Tanner, and Jack Wempe

STUDY TOPIC

Comprehensive Study of Kansas Public Elementary and Secondary
Education Financing Programs

December, 1996

Senate Education
1-22-97
Attachment 1

SPECIAL COMMITTEE ON SCHOOL FINANCE

STUDY TOPIC: A Comprehensive Study of Kansas Elementary and Secondary Education Financing Mechanisms*

SUMMARY: The Committee recommends legislation to do the following:

- Base computation of school district general fund budgets on the greater of the unweighted full-time equivalent enrollment of the preceding or current school year. (Estimated additional annual cost—\$6.0 million.)
- Repeal the special declining enrollment provision enacted by the 1996 Legislature that is applicable in 1997-98 to Winfield (USD 465), Arkansas City (USD 470), and the school districts located in Shawnee County.
- Implement in the 1997-98 school year the two remaining correlation weight steps now scheduled for implementation in the 1997-98 and 1998-99 school years, respectively. (Estimated additional cost in FY 1998—\$10.0 million.)
- Increase the at-risk pupil weight from 5.0 percent to 7.5 percent. (Estimated additional annual cost—\$10.0 million.)
- In 1996-97 only, increase the new facilities weight from 25.0 percent to 33.0 percent for districts experiencing extraordinary enrollment growth, with the additional amount serving to offset a like amount of additional local option budget authority previously approved by the State Board of Tax Appeals. (Estimated additional cost for FY 1997—\$1.2 million and applicable only to Blue Valley (USD 229) and Olathe (USD 233).)
- Repeal the provision of law which permits certain school districts to appeal to the State Board of Tax Appeals for authority to levy a property tax to defray costs associated with commencing operation of a new facility.
- Replace the existing mandatory local option budget resolution expiration provision with a provision that gives a school district the choice of whether to include an expiration

date in the resolution and, if an expiration date is included, to fix its duration.

- Create a new local-state partnership budget, similar to the local option budget, but limited to 5.0 percent of the school district general fund budget, subject only to local school board approval, and dedicated solely to special education costs. (In the aggregate, a local option budget and a local-state partnership budget could not exceed 25.0 percent of the school district general fund budget.)
- Increase the school district contingency reserve fund cap from 4.0 percent to 7.5 percent of the school district general fund budget.
- Reduce the threshold for qualifying for special education catastrophic state aid from \$25,000 to \$20,000, the increased cost to be an amount in addition to special education services state aid otherwise provided. (Estimated additional cost in FY 1998—\$650,500.)
- Authorize school districts to charge fees for transporting public and nonpublic school pupils who live less than 2.5 miles from school.

The Committee recommends that the following issues be studied during the 1997 Session:

- The low enrollment weight issue, using the "Mueller Report" and other relevant studies and information.
- Modification of the school finance formula by providing for exclusion from the school district local effort deduction an amount equal to 25.0 percent of federal Public Law 874 receipts attributed to families that live and work on a military post located in the school district.
- Provision of legislative authorization for alternative tax sources from which school district boards might choose for funding the local revenue component of the local option budget.
- The maximum age at which compulsory school attendance should be required and general educational development (GED) equivalency participation as a means of compulsory attendance compliance.

* S.B. 4, H.B. 2002, and H.B. 2003 accompany the Committee's report.

BACKGROUND

MATERIALS REVIEWED

The Committee conducted an in-depth review of the principal features of the school financing provisions of the School District Equalization and Quality Performance Act and all of the state categorical aid programs for school districts, including the state contribution to the Kansas Public Employees Retirement System (KPER-School) on behalf of school district employers. In this connection, the Committee received staff reports containing data showing multi-year school district enrollments; enrollments and spending power attributable to each of the school finance formula pupil weights; school district per pupil (unweighted) full-time equivalent combined general fund and supplemental general fund budgets (the latter more commonly referred to as "local option budgets" or "LOBs") and general fund budgets (separately); school district LOB actions, including LOB amounts budgeted, state aid for LOBs, and LOB property tax rates; all school district property tax rates; school district attendance centers; total school district expenditure and operating budget data on an actual and inflation adjusted basis; and the relationship between state aid to school districts and total State General Fund expenditures.

The Committee also acquainted itself with information regarding the main principles upon which most state school financing mechanisms are based. In connection with the pupil weight approach to school funding, the Committee reviewed the current "at-risk" pupil weight in the Kansas formula in comparison to the weight assigned for this purpose in other states and considered alternative definitions of the "at-risk" pupil for school finance purposes. Concerning LOBs, the Committee reviewed provisions of several of the state's statutory protest petition election provisions, especially the protest petition signature requirements. The Committee also reviewed the November 18, 1996, consensus estimates of revenues to the State General Fund in FYs 1997 and 1998 in order to remain informed about the state's fiscal condition during the deliberations about school finance issues.

A segment of the Committee's study was directed to special education matters. In this regard, the Committee reviewed the main requirements of federal and state law concerning provi-

sion of special education services to children with disabilities and the linkages between these laws and the rights afforded such children by the Fourteenth Amendment of the *United States Constitution*, as interpreted by the courts. The Committee received information about the special education financing arrangements currently in use in Kansas; the history of total school district expenditures for special education, state special education categorical aid, the number of special education students, the number of personnel employed by school districts for the purpose of providing the full range of special education services, and special education "excess costs;" factors that have been suggested as contributors to the increasing costs of the special education program; special education financing plans used by other states; and trends among the states in special education financing. The Committee also visited two special education schools located in Wichita (USD 259): Levy Special Education Center which serves children ages 3-21 who are severely mentally retarded, have traumatic brain injury, have other severe disabilities, or who have multiple disabilities and Sowers Alternative High School which serves mainly high school students up to age 21 who have serious behavioral problems due to diverse circumstances and who have been unable to function in a traditional high school.

In addition, two of the state's attorneys in the school finance litigation which culminated in December 1994 with the Kansas Supreme Court declaration that the 1992 School Finance and Quality Performance Act met requirements of the *Kansas Constitution* discussed with the Committee the main issues relating to legislative power and responsibility in the financing of public schools. One of the attorneys commented especially on the issues of contention surrounding the low enrollment weight concept. Among other things, the attorney said that it is absolutely undisputed that schools that currently are receiving low enrollment weight have higher costs per pupil due to economy of scale. If the Legislature believes that some low enrollment districts are unnecessarily small, then it must deal with the matter through separate constitutional legislation. Otherwise, children in the low enrollment districts would be hurt.

The Committee received information about a potential problem under the school finance formula regarding the treatment of federal P.L.

874 funds and heard a presentation of a recent Legislative Post Audit study entitled "Assessing Selected School Districts' Use of General Fund Moneys and Lease-Purchase Arrangements for Capital Improvement Projects," No. 96-57. In this connection the Committee learned that the Legislative Post Audit Committee had requested preparation of legislation to address the two recommendations produced by the audit, both of which are directed toward greater clarification of existing laws. These measures are expected to be available for consideration during the 1997 session.

HEARINGS

The Committee held hearings on four separate occasions. One hearing focused on the school district general fund budget including Base State Aid Per Pupil (BSAPP) and the various pupil weights, especially the low enrollment weight. Separate hearings targeted issues regarding LOBs and declining enrollments. Some finance-related recommendations were submitted at that time. Another hearing was directed toward gathering information about alternative school programs. Summary information regarding each of those hearings follows. More detailed information is available in the Committee files indicating the positions expressed by specific conferees.

SCHOOL DISTRICT GENERAL FUND BUDGET, INCLUDING BASE STATE AID PER PUPIL (BSAPP) AND PUPIL WEIGHTS, AND BONDS AND INTEREST STATE AID PROGRAM

A major portion of the October 7-8 meeting of the Committee was devoted to public hearings on the school finance formula. Testimony was received from a number of school districts and on behalf of certain organizations. Testimony was presented by representatives of the following school districts: Geary County (USD 475), Hays (USD 489), Mankato (USD 278), Wallace County (USD 241), Chase County (USD 284), Ashland (USD 220), Jefferson County North (USD 339), Yates Center (USD 366), Mill Creek Valley (USD 329), Dodge City (USD 443), Flint Hills (USD 492), Erie (USD 101), Waconda (USD 272), Mullinville (USD 424), Haven (USD 312), and Hugoton (USD 210). Organizations represented included Schools for Fair Funding, Kansas Association of School Boards, United School Adminis-

trators, and Kansas-National Education Association. Mr. Shelby Smith, former chair of the House Assessment and Taxation Committee, also presented testimony.

Following is summary of the main issues addressed and recommendations presented at the hearing:

- **BSAPP.** Generally, the recommendation of conferees was that BSAPP, currently \$3,648, be increased. Such proposals ranged from \$3,800 to \$4,500. A common recommendation was that BSAPP be made subject to automatic adjustment or be indexed by some inflation measure. It also was proposed that BSAPP increases be linked to a planned phase-out of the LOB.
- **LOW ENROLLMENT.** Several spokespersons for low enrollment school districts urged that no change be made in the low enrollment weight provision. In contrast, one conferee proposed that about 80 percent of the amount now used for the low enrollment weight be redistributed to school districts by raising BSAPP, another conferee suggested that the formula provide greater increases in budget authority for low-funded districts than for higher funded districts or that the gap between such districts be otherwise reduced over time, while another conferee observed that the logic upon which the low enrollment weight is based disappears when school district enrollment reaches about 1,300.
- **CORRELATION.** Some conferees urged that the Legislature continue to support the four year phased in implementation of the correlation weight. One suggestion was that the two remaining steps of this phase-in be implemented next year rather than over the next two years. Another suggestion was that a correlation weight, at the rate of the low enrollment weight applicable to school districts with 1,200 enrollment, be applied to all school districts having enrollments of 1,200 and over.
- **TRANSPORTATION.** The conferees who addressed this component of the law urged that the weight be modified so that school districts receive state aid for transporting students at some distance less than the current 2.5 miles. One suggestion was that this threshold be reduced to 1.0 mile.

- **AT-RISK.** Several conferees recommended that the at-risk weight be increased from the current 5.0 percent. Other figures specifically mentioned were 10.0 percent and 20.0 percent. In addition, some conferees suggested that the term "at-risk" be redefined in some manner that more accurately describes the group of students targeted for service. Somewhat related proposals urged enhanced weighting for alternative school programs.
- **BILINGUAL EDUCATION.** Two conferees recommended that the bilingual education weight be increased, one of whom proposed an increase from 20.0 percent to 30.0 percent.
- **VOCATIONAL EDUCATION.** One conferee opined that the vocational education weight is working satisfactorily while another conferee proposed that this weight be reduced and that the money associated with it be redistributed in the form of increased BSAPP.
- **NEW FACILITIES.** One conferee said it would be more equitable if school districts could receive the new facilities weight whether or not they are using the full 25.0 percent LOB authority (a requirement of the current law). Another conferee recommended that an additional provision, such as an appeal based on demonstrated needs, be made available for ongoing costs associated with opening a new school.
- **UNIFORM GENERAL FUND PROPERTY TAX LEVY.** One conferee urged that the uniform school district property tax levy be abolished and that it be replaced by locally imposed school district property tax rates, as necessary, in order to fund some legislatively determined portion of the operating budget, e.g., one-third. Another conferee said that the first priority for property tax reduction should be reducing reliance on the LOB (by increasing BSAPP), not reducing the statewide mill levy.
- **BOND AND INTEREST STATE AID.** Two conferees questioned the distinction that is made in the bond and interest state aid program which provides for a lower state aid matching ratio for bonds issued before July 1, 1992, than those issued on or after that date. One conferee urged that all bonds and interest state aid be determined on the latter basis.
- **ENROLLMENT OF NONRESIDENT STUDENTS.** One conferee suggested a policy change so that, when students attend school in a district other than the one of residence, the "receiving"

school district would get the low enrollment or correlation weight, as the case may be, of the district of residence. This would be a reversal of the current policy which applies the low enrollment or correlation weight applicable in the receiving district.

- **TECHNOLOGY.** One conferee requested that assistance be provided for the acquisition or replacement of technology, either through school district general fund budgets or as a separate program.
- **OTHER RECOMMENDATIONS.** Some miscellaneous school funding recommendations produced by the various hearings were: the state should fully fund the costs of programs it mandates or allow school district boards to raise the unfunded costs locally; consideration should be given to providing for wealth equalization of the capital outlay fund; school administrators and school boards need more training in preparing and administering school budgets; the law should be changed to allow newly elected school board members to take their seats immediately after the election rather than to allow a lame-duck board to remain in place through June; and if the state is going to control the "purse strings," the state should not require employee-employer negotiations.

LOCAL OPTION BUDGET (LOB)

Testimony was presented by the following school districts, organizations, or individuals: Stu Curtis (Dodge City), Dick Hopper (Derby), and Roger Doppinghause (Wichita), all citizens having had direct involvement in LOB activities in the school districts in which they reside; Kansas Association of School Boards, United School Administrators, Wichita Chamber of Commerce, Derby Chamber of Commerce, Kansas Taxpayers Network, Inc., and Project Educate (Wichita); Salina (USD 305), Wichita (USD 259), Mullinville (USD 424), De Soto (USD 232), Mankato (USD 278), Auburn-Washburn (USD 437), Emporia (USD 253), Rose Hill (USD 394), and Geary County (USD 475). Some testimony regarding the LOB also was included with comments made to the Committee at its hearing regarding broader school finance issues.

Testimony on this issue covered a broad spectrum of viewpoints, some of which were

contrary to others. The main positions expressed are summarized below:

- The LOB should be eliminated. It should be replaced by increasing BSAPP. In this connection, some conferees recalled that the 1992 school finance legislation contained a feature that provided for the phase-out of the LOB over time, commensurate with BSAPP increases. One conferee said that the concern for the consequences to a school district that loses its LOB should be addressed through BSAPP. This approach was deemed preferable to changing the LOB rules so as to reduce the risk to a district of losing LOB authority. Some conferees explained that the Legislature had not kept BSAPP abreast of inflation, thus placing more pressure on school districts to utilize LOB spending authority. Others emphasized the spending gaps between districts that have been successful in adopting LOBs and those that have not and expressed concern about the fairness of provisions that result in such differences. It was noted that LOB issues sometimes make it more difficult for school districts to convince the public of the need for building projects that require voter approval for tax levies.
- The protest petition and election provision should be modified or eliminated, leaving more LOB responsibility in the hands of locally elected boards of education. Some conferees believed these provisions should be eliminated while others proposed methods by which some portion of LOB authority would be protected from the protest petition and election procedure. Some testimony suggested that the four year life of LOB resolutions is flawed and should be eliminated. They pointed to the potential for catastrophic consequences within a school district that has relied heavily on the LOB for ongoing operations in the event the board is not successful in convincing the electors of the continuing need for the LOB. Also, some noted that the potential sunset of the LOB every four years prevents long-range planning. The view was that spending authority for ongoing operations should not be subjected to the potential for periodic elections on that specific question. (Under the law, a school district loses the full amount of its LOB authority upon the expiration of the current resolution, unless a new

resolution is adopted. Any new LOB resolution is subject to the protest petition and election provision.) Some conferees cited specific demographic and other conditions within their school districts which effectively denied them access to the LOB for reasons that might not be so pronounced in other school districts.

- The protest petition and election provision should be retained. Proponents of this position believed that the protest petition and election provision promotes accountability to the public and provides leverage in getting school boards to listen and respond to citizen concerns.
- If the LOB is to be retained, all LOB proposals should be subjected to election. The conferee who made this recommendation further proposed that no LOB question be placed on the ballot more than once per year; that LOB elections be held only in conjunction with general elections; that each registered taxpayer be notified 90 days prior to placement of the LOB on the ballot; and that the proposal be published in the newspaper at least three times, the last time at least 30 days prior to the election.

OTHER

In addition, the Committee received some testimony suggesting that school districts be given access to nonproperty tax resources to help fund the LOB, such as local sales or income taxes.

A statistical analysis conducted for the Committee was designed to test individually and collectively for the existence of statistical correlation between school district use of the LOB and the factors of school district enrollment, assessed valuation per pupil, and average tax rate within a school district. Observations drawn from this analysis were that there was a mild pattern of relationship among district LOBs, assessed valuation per pupil, and average tax rate. However, the trend seemed to hold for a relatively small number of districts. For most districts, the dominant pattern was the lack of relationship among LOB, assessed valuation per pupil, enrollment, and average tax rate. From a financial equity standpoint, the finding of no firm relationship between LOB usage and school district relative tax base, would be considered desirable.

DECLINING ENROLLMENT

After having reviewed the way the present Kansas law addresses the matter of school district enrollment declines and individual school district historical enrollment data, the Committee conducted a hearing specifically to learn how school districts affected by enrollment declines are coping with the situation and to obtain information about problems believed to be attributable to the law and how the law might be improved. The following school districts submitted testimony on this matter, the first six of which were requested to do so by the Committee because of protracted or severe enrollment losses those districts have experienced and because they represented diversity in terms of size of enrollment and geographic location: Hill City (USD 281), Hoxie (USD 412), Wichita (USD 259), Topeka (USD 501), Great Bend (USD 428), Coffeyville (USD 445), Plainville (USD 270), Humbolt (USD 258), and Wichita County (USD 467).

Generally, the districts were in agreement that a problem with the current law is that a school district experiencing an enrollment decline is placed in an especially difficult position in its efforts to prepare the budget for the ensuing school year. The actual school district general fund budget spending authority is not finally known until September 20 of the next (then current) school year. Sometimes final staffing commitments cannot be made until the actual enrollment is known. This situation exists in all instances, whether or not enrollment increases or decreases, but the problem occurs when the enrollment is declining because the district may have to delay rehiring and making other staffing commitments until well into the then current school year. Making severe cuts in the current school year can be very difficult. The consensus seemed to be that a simple, workable solution would be to permit a school district to prepare its budget on the basis of the greater of the current or preceding school year's enrollment. Some conferees appeared to be referring to the unweighted full-time equivalent enrollment of the preceding year while others suggested the weighted figure. Either way, school districts expecting an enrollment decline would have better information well in advance of what the budget for the next school year would be. The contention was that this would facilitate school district planning, espe-

cially as it relates to staffing. School board negotiations with teachers' organizations could proceed more efficiently than presently is the case. The conferees recognized this procedure would protect their districts from the financial consequences of an enrollment decline for only one year. Nonetheless, it was viewed as providing a reasonable opportunity for planning for the adjustments required in the following year.

In its consideration of the issues raised by the conferees, the Committee reviewed how the declining enrollment issue is addressed in the school finance laws of other states. The more common practices are to permit the school district to use the greater of the enrollment in the current school year or the preceding school year; to use a two- or three- year average for declining enrollment districts; to use the enrollment of the preceding school year; or to use the enrollment of the preceding school year unless an increase occurs in the current school year and, in that event, to adjust for the increase.

ALTERNATIVE SCHOOLS

In connection with the at-risk pupil weight contained in the school finance law and out of a strong interest in learning more about innovative efforts being made among the school districts to intervene in the interest of preventing children from dropping out of school and helping others re-enter a program designed to result in high school completion, the Committee received testimony from some school districts in which alternative schools are located and visited one such school. The Committee also gathered information about the number of alternative high schools being operated pursuant to school district initiatives throughout the state, the number of persons receiving their high school diplomas through participation in these programs, and enrollments in alternative school programs. Presentations to the Committee were descriptive of the following alternative school programs: Reno County Alternate School; Cornerstone High School (a cooperative program in Cherokee County); Olathe Alternative School (which consists of a variety of targeted programs); Wichita Gateway, Metro-Meridian, and Arkansas Avenue Gateway Alternative Program; and Salina Alternative School Program.

The Committee was very much impressed with efforts that school districts are making in order to provide opportunities for students who, for a variety of reasons, have encountered difficulty continuing on a track toward high school completion, who otherwise would be dropouts, or who have dropped out but are making another effort to complete high school.

One of the common concerns presented to the Committee was that these programs tend to cost more than the amount of funding the school district receives for these students in the form of BSAPP, even when the at-risk weight is considered. Some alternative programs have benefited from private donations, but these cannot be relied upon for ongoing operations. Per student 1995-96 costs provided to the Committee for these programs were \$4,597 to \$5,475 for the Reno County program, depending upon whether facility and equipment costs were taken into account; \$5,861 in Cherokee County; \$6,000 in Salina; and about \$5,800 in Wichita. In 1995-96, BSAPP was \$3,626. The at-risk weight for those who would have qualified would have added \$181.30 for a total of \$3,807.30.

PUBLIC LAW 874

The Committee received information concerning an issue that has developed regarding the treatment of federal P.L. 874 funds under the school finance formula. These federal moneys are received by certain school districts that are impacted by federal activity such as military installations and reservoirs. The principle involved is the recognition by the federal government that such activities result in additional burdens to school districts for which there otherwise would be no compensation, as federal properties associated with such activities are not subject to the property taxes imposed by local governments. To the extent permissible under federal law, the state's school finance plan treats these revenues as "local effort" and, therefore, as a deduction in computing the affected district's general state aid entitlement. Kansas policy makers have adopted this approach because they have believed it to be more equitable than merely ignoring the P.L. 874 amounts received by school districts, thereby giving them a "windfall" in the amount of such payments. This practice also saves the state about \$8.0 million per year.

The federal law permits this practice so long as the variation in school district revenues per pupil does not exceed 25.0 percent. This standard is applied to the disparity in such revenues among districts between the 5th and 95th percentile of school district weighted enrollment. Under the Kansas law, the LOB provision produces a 25.0 percent spread of revenues per weighted pupil that matches the federal limitation.

State Department of Education staff reported that the problem which has arisen results from 1993 and 1995 amendments to the school finance law which allow a school district to appeal to the State Board of Tax Appeals for permission to levy a property tax for up to two years to defray costs associated with commencing operation of a new facility beyond the costs otherwise financed under the law. To qualify, the district must have begun operation of one or more new facilities in the preceding or current school year, have adopted the maximum LOB, and have had an extraordinary enrollment growth, as determined by the State Board of Education. This levying authority may extend for an additional three years when the school district's board determines that the costs attributable to commencing operation of the new facility are significantly greater than the costs of operating other school facilities in the district. The tax that may be levied is computed by the State Board of Education by first determining the amount produced by the tax levied for operation of the facility by the district in the second year of the initial tax levying authority and by adding the amount of general state aid attributable to the school facilities weight for that year. Of the amount so computed, 75.0 percent, 50.0 percent, and 25.0 percent, respectively, are the amounts that may be levied during the three-year period. It was reported to the Committee that use of this property taxing authority by just two of the large enrollment districts that can qualify for it likely would cause Kansas to exceed the 25.0 percent limitation on the per pupil revenue variation among school districts. The result of this noncompliance with the federal law could result in Kansas losing its ability to make P.L. 874 "local effort" deductions. If this situation occurs in the 1996-97 school year, the consequences would first apply in the 1998-99 school year.

CONCLUSIONS AND RECOMMENDATIONS

During Committee deliberations, there was some degree of discussion of all of the foregoing matters. However, the issues that garnered the most attention were those pertaining to the LOB; the low enrollment and correlation weighting; the school finance formula recognition of at-risk students and the matter of student participation in alternative school programs; the procedure for determining full-time equivalent (FTE) September 20 enrollment in school districts for budget-making purposes; the pupil transportation issue, including the state aid program and the obligations of school districts with respect to provision of the transportation service; the P.L. 874 issue as it relates to current state law concerning financing of the operation of new school facilities; and the special education catastrophic state aid program. The Committee recommendations follow.

ENROLLMENT DETERMINATION FOR SCHOOL DISTRICT BUDGETING (DECLINING ENROLLMENT ISSUE)

The Committee recommends legislation to base computation of school district general fund budgets on the greater of the unweighted FTE enrollment of the preceding or current school year. The Committee also recommends repeal of the special declining enrollment provisions enacted by the 1996 Legislature, applicable in the 1997-98 school year to Winfield (USD 465), Arkansas City (USD 470), and the school districts located in Shawnee County (in connection with the closure of Winfield State Hospital and Training Center and Topeka State Hospital).

Under current law, the general principle is that the current year's September 20 FTE enrollment is used. However, if the enrollment in the current year has decreased from the prior year, one-half of the lost enrollment, subject to a 4.0 percent cap, is added to the current year's enrollment. Under the Committee's proposal, the low enrollment and correlation weights would be based upon whichever FTE count is used. All other weights would be based on current year data.

With respect to the proposed repeal of the 1996 special legislation, the Committee's view is that its main proposal would be as helpful to the affected districts as the special legislation.

The Committee's recommendation is aimed at addressing the issue raised by several school districts and organizations concerning the difficulties school districts face under current law, especially those experiencing enrollment declines, in preparing and executing their budgets for the ensuing school year. Now, many school districts facing enrollment declines do not know until late September what their budget authority for the school year that began on the preceding July 1 will be. This means that final staffing decisions are delayed well into the current school year. Releasing or recruiting teachers at this time simply does not serve well the interests of planning or efficiency in the delivery of public education services. The Committee's recommendation will provide relief because the local school boards will know at least the minimum number of dollars that will be available to them in the ensuing school year. This will make it possible for school districts to avoid having to make staffing cuts and reconfigurations after the current school year is well underway. It was estimated by State Department of Education staff that this change in law would cost the state about \$6.0 million more annually than the current declining enrollment provisions.

LOW ENROLLMENT AND CORRELATION WEIGHT

The Committee recommends legislation to implement in the 1997-98 school year the two remaining correlation weight steps now scheduled for implementation in the 1997-98 and 1998-99 school years, respectively. The Committee also recommends that during the 1997 Session the House and Senate Education Committees study the low enrollment weight issue and that, in doing so, the "Mueller Report"* and other relevant studies and information be considered.

It is estimated that the additional cost of making the correlation weight change in FY 1998 would be about \$10.0 million. This cost would be moved forward from FY 1999 to FY 1998.

The Committee devoted a major portion of its deliberations to the low enrollment and correlation weight components of the school finance

* "Policy Research on the Low Enrollment Weighting Component of Kansas School Finance," Van D. Mueller, Ed.D. and Terry Schultz, Ph.D., December 1994.

plan. Initially, much of the focus was on the low enrollment weight issue, as this component of the formula and the relative magnitude of the adjustment afforded low enrollment districts has been, and continues to be, contentious. In the end, rather than opting to alter the low enrollment weight, the Committee chose to recommend accelerating the correlation weight implementation schedule as a means of providing a modest reduction in the disparity of adjustment for the small and larger enrollment school districts and continuing study of the appropriateness of the low enrollment weight mechanism.

The Committee's proposed legislation also will eliminate a concern held by districts that receive correlation weighting (in 1996-97—all districts with enrollments of 1,850 and over—and, in 1997-98 under the Committee's recommendation—all districts with enrollments of 1,800 and over), that being the provisions of the current law (to be repealed) that make implementation of correlation weight steps the first casualty in any year in which state funding for school district general fund budgets is insufficient to fully fund the formula. It has been said that these districts are reluctant to rely in their budgets on the scheduled implementation correlation weight step for fear that the Legislature will not fully fund the formula. Under the Committee's proposed legislation, if in some school year the general state aid appropriation is insufficient to fully fund school district general fund budgets and the BSAPP proration provision must be invoked, all districts will share equally in the reduction. The burden will not fall more heavily on the school districts that receive the correlation weight.

AT-RISK WEIGHT

The Committee recommends legislation to increase the at-risk pupil weight from 5.0 percent to 7.5 percent.

The estimated additional cost of implementing this recommendation in the 1997-98 school year would be about \$10.0 million. The Committee is very much attuned to the importance of a state policy that supports services targeted to the needs of at-risk students. During the course of the interim, the Committee reviewed information regarding state aid programs that include special weights for compensatory or at-risk pupils as adjustments to a state's principal school funding mechanism. Kansas appeared to rank among the

lowest of the 17 states identified in terms of supplements provided to service at-risk students. The Committee also received from school districts considerable information regarding alternative school programs and their efforts to keep students in school and to enable them to graduate. As noted elsewhere in this report, these programs tend to be substantially more costly than regular education. In connection with this matter, the Committee spent considerable time discussing alternative approaches for identifying at-risk pupils for state funding purposes or for providing funding for direct participation in alternative school programs. This task proved vexing, however, with the result being to continue using current procedures but to increase the weight.

NEW FACILITIES WEIGHT AND PROCEDURES AND FEDERAL PUBLIC LAW 874

The Committee recommends that, for the 1996-97 school year only, the new facilities weight be increased from 25.0 percent to 33.0 percent for certain districts with this additional amount serving to offset a like amount of additional LOB authority previously approved by the State Board of Tax Appeals (SBOTA). Only those school districts that have qualified under K.S.A. 72-6441 and have actually been authorized to levy a tax by SBOTA would qualify for this special 33.0 percent weighting. The Committee further recommends that the 1997 Legislature repeal the provision of law which permits certain school districts to appeal to SBOTA for permission to levy a property tax to defray costs associated with commencing operation of a new facility. The Committee also recommends that the appropriate committees of the 1997 Legislature consider the matter of modifying the school finance formula by providing for exclusion from the school district local effort deduction an amount equal to 25.0 percent of the P.L. 874 receipts attributed to families that live and work on a military post located in the school district.

It is the use of the special property taxing authority by only the Blue Valley (USD 229) and Olathe (USD 233) school districts that make Kansas exceed the 25.0 percent limitation on per pupil revenue variation among school districts and, thereby, cause Kansas apparently to be in noncompliance with requirements of the federal law in the 1996-97 school year. The Committee's recommendations are structured as a minimalist

approach to fix the problem in the current school year and to solve it permanently for school years 1997-98 and beyond. The State Department of Education has estimated that the cost to the state of the 1996-97 school year proposal would be about \$1.2 million.

School districts that receive the bulk of P.L. 874 funds are those heavily impacted by the presence of a federal military reservation. Especially in connection with the impact upon the Geary County (USD 475) school district by the Ft. Riley Military Reservation, emphasis was placed on the unique demands the educational system faces. Because of the nature of the military tour of duty, the district serves a very transient population. It also deals with many stressed families that are affected by parental separation due in major part to military personnel assignments.

LOCAL OPTION BUDGET (LOB) AND LOCAL-STATE PARTNERSHIP BUDGET (NEW)

The Committee recommends legislation to eliminate the mandatory LOB resolution expiration provision and to authorize school districts to adopt LOB resolutions with or without a specified expiration date. The duration of a resolution that includes an expiration date is determined by the local school board. The Committee also recommends creation of a new Local-State Partnership Budget.

Under the present law, a school district is authorized by resolution to adopt an LOB for a period of up to four years in an amount of up to 25.0 percent of the district's general fund budget. This LOB spending authorization is subject to a protest petition and election provision. If no sufficient protest petition is filed or if the electors, by referendum, approve the board's resolution, the board may proceed to operate under the resolution.

Under the Committee's proposal, an original or renewal LOB resolution would continue to be subject to the present protest petition and election provision. The difference would be that the school district board's LOB authority approved in this manner would terminate after a specified number of years only if the board chose to include an expiration date in the resolution. If such a date were included, the LOB authority under the resolution would expire in accord with the resolution's terms.

The Local-State Partnership Budget (LSPB) patterned on the LOB, with the following differences:

- The LSPB may not exceed 5.0 percent of the general fund budget.
- The LSPB could be approved by action of the school district board of education. There would be no applicable protest petition or election procedure.
- The LSPB revenues could be used only for the purpose of providing special education services. Money in this fund would be expended for special education costs or transferred to the special education fund of the district for expenditure.

Revenue for the LSPB would be derived in the same manner as the LOB. The school district could impose a property tax to fund the LSPB and would receive LSPB state equalization aid under a formula identical to that which provides supplemental general state aid to the LOB.

Under the Committee's proposal, the LOB and LSPB, in the aggregate, could not exceed 25.0 percent of the school district's general fund budget.

The Committee's recommendations are directed toward creating a future environment in which the catastrophic consequences to a district of losing its entire LOB spending authority can be averted. Under the proposal, in order for any school district to acquire "permanent" LOB authority, the proposal must withstand the same protest petition and election procedure as currently applies to the LOB. School districts that now rely on LOB spending will risk the loss of that authority, just as is the case under the current law, when they seek their next renewal. These districts will be called upon to convince the electorate that continued LOB authority, which may become permanent authority, is warranted if they are to secure it. A similar burden will rest on the school boards of districts that heretofore have not had access to LOB authority. The Committee believes that in the long-run its recommendation will contribute to greater stability in the school finance program and provide better support for long-range planning by school districts.

The LSPB provision specifically is designed to confer a limited amount of discretion to local school boards in drawing upon an alternate funding source to help pay special education

costs. One purpose of this proposal is to provide for many school districts some relief from demands that are made on the general fund to pay special education costs. Data for the 1995-96 school year indicate that school districts transferred \$73.65 million from their general funds and \$46.85 million from their LOBs for a combined total of \$120.5 million to the special education fund. This total amount was the equivalent of about 6.2 percent of school district general fund budgets. Use of the LSPB will give school districts some relief in meeting other of their obligations for general operation.

LOCAL OPTION BUDGET (LOB) REVENUE SOURCES

The Committee reports that it agrees in principle with moving in the direction of providing legislative authorization for alternative tax sources from which school district boards of education might choose for funding the local revenue component of the LOB. During the course of the interim, the Committee at various times discussed the merits of making available to school district boards of education some alternative revenue sources for funding the LOB. Most often mentioned were sales and income taxes. Although much interest was expressed in this issue, there did not emerge a consensus for a specific legislative proposal.

CONTINGENCY RESERVE FUND

The Committee recommends legislation to increase the contingency reserve fund cap from 4.0 percent to 7.5 percent of school district general fund budget authority.

Under current law, a school district is authorized to transfer money from its general fund to the contingency reserve fund subject to the limitation that the amount in this fund may not exceed 4.0 percent of the amount of the general fund budget of the district in the current school year. Money may be spent from this fund for financial contingencies not anticipated at the time the general fund budget was adopted.

The Committee proposes this change simply to provide some additional flexibility to school districts in their efforts to respond to unanticipated situations that, from time to time, arise. The 7.5 percent cap was selected because it is the same percentage as is required by law with respect to minimum fiscal year ending balances in the State

General Fund in relation to State General Fund authorized expenditures for the fiscal year. There is no additional state fiscal impact associated with this recommendation.

SPECIAL EDUCATION "CATASTROPHIC" STATE AID

The Committee recommends legislation to reduce the threshold for qualifying for special education catastrophic state aid from \$25,000 to \$20,000. The Committee also recommends that the \$650,500 estimated to be required to implement this policy change in FY 1998 be an amount in addition to the amount that the Legislature otherwise appropriates for special education services aid in that year.

Under current law, a school district that has provided special education services to an exceptional child, the costs of which exceed \$25,000 for the year, is eligible for a grant of state money in an amount that equals 75.0 percent of the portion of the costs of the services in excess of \$25,000. These grants are paid as a first claim on the special education services state categorical aid appropriation.

The Committee received some testimony indicating that the current \$25,000 threshold is too high. A point was made that there may be several very high cost special education students, in the range of \$20,000 annually, for example, whose costs exceed the amounts otherwise provided under the state's main special education services categorical aid distribution formula but who do not qualify the school district for catastrophic aid. The Committee's recommendation addresses that concern. State Department of Education staff estimate that the Committee's recommendation would increase the cost of the current state catastrophic aid distribution in FY 1998 by \$650,500—from \$1.5 million to \$2.15 million. This change, by itself, does not increase the cost to the state of the state special education services categorical aid program. However, the intent of the Committee is that this change not have the effect of reducing the amount of special education services aid that otherwise would be available to school districts.

PUPIL TRANSPORTATION

The Committee recommends legislation to permit school districts to charge fees for transport-

ing public and nonpublic school pupils who live less than 2.5 miles from the school attended.

The current Kansas law requires school districts to provide transportation to pupils who live more than 2.5 miles from school (unless the pupil lives within the same city as the school attended). Transportation of other pupils is optional to the local school board; practices in this regard vary greatly throughout the state. The transportation aid weight formula provides state aid to school districts that transport children 2.5 miles or more from home to school. When a school district provides transportation for pupils attending the public schools, certain pupils residing in the school district who attend State Board of Education accredited private or parochial schools are entitled to the privilege of school bus transportation.

In accord with provisions of the *Kansas Constitution*, school districts are not permitted to charge fees or supplemental charges to pupils required by law to attend school unless so authorized by the Legislature. The Committee believes that authorizing local school boards to impose fees for nonmandatory pupil transportation (less than 2.5 miles from home to school) will make it possible for some school districts to extend transportation services where they are not now available. In a sense, the playing field will be leveled as, in some cases, parents now contract with private providers of transportation for school transportation services. Under the Committee's recommendation, public schools also will be permitted to provide transportation on a fee basis to pupils who otherwise might not have transportation services available to them.

COMPULSORY ATTENDANCE MAXIMUM AGE REQUIREMENT

The Committee recommends during the 1997 Session that the appropriate legislative committees study the matter of the maximum age at which compulsory school attendance should be required and the matter of general educational development (GED) equivalency participation as a means of compulsory attendance compliance.

An element of the 1996 juvenile justice reform legislation was a provision that increases the maximum compulsory attendance requirement from age 16 to 18. Exceptions to this requirement occur when the youth has obtained a high school diploma or if the child is age 16 or

age 17 and a parent or the court give written consent to exempt the child from this requirement. A 16- or 17-year-old child who is enrolled in a program recognized by the local board of education as an approved alternative educational program also is exempt from the general compulsory attendance requirement. This provision becomes effective on July 1, 1997. Committee members are concerned about the impact this new provision will have on the public school environment if some older children who do not wish to attend school nonetheless are compelled to do so. Also, some interest was expressed in exploration of whether working toward a GED could be treated as a means of compulsory attendance compliance.

CONCLUSION

The Committee submits this report and these recommendations, together with three proposed bills, for consideration by the 1997 Legislature. ■