

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 February 5, 1997 in Room 123-S of the Capitol.

All members were present except: Senator Downey

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

Conferees appearing before the committee: Mark Tallman, KASB  
Jim Cain, Superintendent West Franklin USD 287, Pomona

Others attending: See attached list

Chairperson Lawrence called the meeting to order and asked for action on the minutes of January 27 and January 28. Senator Emert moved the minutes of January 27 and January 28 be approved. Senator Umbarger gave a second to the motion. The motion carried.

**SB 13**-- school districts; relating to lease and lease-purchase agreements for real or personal property

Background was given on the bill. The bill came through Post Audit. It clarifies current law regarding a school district entering into a lease-purchase of land or buildings that exceeds \$100,000 over the term of the agreement. The local school board must publish a resolution in a newspaper of general circulation once a week for two consecutive weeks. The Post Audit recommendation states on page 3, in line 14, "except that no lease entered into under authority of this section for a school district shall be for any period of time in excess of 10 years." Under current law, a 50-year maximum is placed on the length of any lease-purchase agreement.

Mark Tallman, KASB, spoke as an opponent of the bill, stating that his organization sees no compelling reason why the state should impose additional limits on school district lease purchase agreements and sees no reason why there should be different conditions on the use of lease purchase agreements for the acquisition of land or buildings, as opposed to the use of such agreements for computers, copiers or other equipment. Lease purchase financing may be more cost effective than a bond issue. (Attachment 1)

Jim Cain, Superintendent of West Franklin USD 287, Pomona, Kansas, spoke as a neutral conferee. He stated that the bill seems to do exactly the opposite of what federal and state lawmakers are currently promoting, which is local control. Mr. Cain read through his testimony and said that the common sense approach is to help the district save Kansas taxpayers money by financial assistance for a lease just like a bond. He ended by encouraging the careful consideration of the bill as lease-purchase agreements have worked to the benefit of many school districts and their taxpayers. (Attachment 2)

A FAX to Senator Oleen by Baystone Financial Group opposing the revisions to the statute was entered in the minutes as (Attachment 3)

Senator Emert made several comments on the bill, stating that it was truly , "an eleventh hour" bill and practically the last bill of the session. Everyone at the conference committee, with the exception of Senator Walker, signed off on the bill.

Senator Emert moved to amend SB 13 on page 1, line 37 by reinserting the words, "school district"; to strike on line 40, the word "annual"; insert on line 41 after the number \$100,000 "per annum"; and on page 2 strike entire subsection (d). Senator Oleen gave a second to the motion. The motion carried.

Discussion on the amendment clarified that the 10 year provision is left in and is on page 3 of the bill.

The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION, Room 123-S Statehouse, at 9:00 a.m.  
on February 5, 1997.

Chairperson Lawrence called for action on the bill.

Senator Langworthy moved the passage of **SB 13** as amended. Senator Oleen gave a second to the motion. The motion carried.

The meeting was adjourned.

The next meeting is scheduled for February 6, 1997.

# SENATE EDUCATION COMMITTEE GUEST LIST

DATE: February 5, 1997

NAME	REPRESENTING
Trish Fannenstiel	Post Audit
Jim Cain	West Franklin USD 287
Jacque Dales	SQE
Dorothy Lakefeller	LOWV
Craig Trout	HNFA



TO: Senate Committee on Education  
FROM: Mark Tallman, Director of Governmental Relations  
DATE: February 5, 1997

**RE: Testimony on S.B. 13 - School District Lease Purchase**

Madam Chair, Members of the Committee:

KASB does not have a specific policy position regarding lease purchase agreements, but we appear today as opponents of S.B. 13 because we believe it is an unnecessary restriction on a local board's ability to manage its own affairs.

We see no compelling reason why the state should impose additional limits on school district lease purchase agreements. We see no reason why there should be different conditions on the use of lease purchase agreements for the acquisition of land or buildings, as opposed to the use of such agreements for computers, copiers or other equipment.

Last session, KASB did not oppose legislation which prohibited the use of local option budget funding for lease purchases of land and buildings. The case could be made that this use has an impact on the state because districts may receive state aid for LOB's. Funding for such agreements now must come from the district's general fund or capital outlay fund. The general fund is based on the base budget per pupil, and the use of those dollars should be controlled by the local board. Districts do not receive state aid for capital outlay, and the capital outlay levy is already subject to protest petition.

Lease purchase financing may be more cost effective than a bond issue. It is true that school boards may turn to lease purchases for projects when bonds are rejected by the voters. But what the voters have rejected is the tax increase required to finance a bond issue. We believe it is poor public policy to allow voters to protest individual budget decisions within the general fund or capital outlay fund.

We appreciate this committee's support for greater local flexibility in school district management. This bill would be a step in the opposite direction.

*Senate Education*  
*2-5-97*  
*Attachment 1*

SENATE EDUCATION COMMITTEE - SENATE BILL 13

Thank you for the opportunity to testify on this bill. I am Jim Cain and I am Superintendent of West Franklin USD 287 in Pomona, Kansas. Our district is one that has used lease-purchase agreements for several building projects and for one land acquisition. Additionally, I do consulting work with school districts all over Kansas assisting in the design, construction, and financing of school facilities. In such a capacity, I have learned that it makes good business sense to use a lease-purchase under certain circumstances and under other circumstances bonds are the better choice.

I have no problem with the provisions of Senate Bill 13 that deal with public disclosure and I advocate for that in every district that considers a lease. However, it seems this does exactly the opposite of what federal and state lawmakers are currently promoting, that is local control. Does it truly make sense that a School Board could spend \$325,000 on technology in one expenditure as mine did in 1990 without a public vote and not be able to spend \$100,000 on the building to house that technology unless approved by the voters? It seems the intent of Senate Bill 13 is to place a restriction on a School Board for buildings and land that is not a restriction for any other purpose. I would urge you to carefully consider the wisdom of that arrangement.

In talking to individual Legislators, I am convinced that you believe that a lease-purchase is only used as a way to circumvent a bond issue and consequently the bond election. I have never talked to a Legislator that thought a lease-purchase was a better business arrangement than a bond. Hopefully, that statement doesn't apply to anyone in this room as it is absolutely false.

Let me share a real life situation with you. I am currently consulting with a school district that needs a small building addition that will cost approximately \$800,000. They have that much money in their capital outlay fund but they are reluctant to spend it all on this project. I meet with them tonight and I have gathered pertinent data for their consideration in planning their building project. I have a lease-purchase proposal and a bond proposal from the respective largest firms in each field in Kansas. In both cases the proposal is built on the assumption the project will cost \$800,000 and the district will spend \$400,000 of capital outlay money and finance the other \$400,000 and repayment will be over five years. A firm proposal for the lease-purchase quotes an interest rate of 5.99%. A best guess proposal for a bond issue is 4.6471%. We naturally assume the bond is the better option. However, bond counsel, printing, election costs, advisor fees, agent fees, and other miscellaneous costs will be approximately \$15,000 for this issue. This estimate is provided by the bond advisory firm. With all costs considered this project will cost the district a total of \$468,802.40 for a \$400,000 lease and \$490,824.58 for a \$400,000 bond. The lease saves \$22,022.18. However this district gets 29% state aid with a bond. Therefore I will recommend a bond to them because the cost to the district will be \$348,485.45 and will save the district \$120,316.95 because the state will pay \$142,339.13 toward the bonds and nothing toward the lease.

*Senate Education  
2-5-97  
Attachment 2*

If you have been able to follow this financial outline, the common sense approach is to help the district save Kansas taxpayers money by financial assistance for a lease just like a bond. I submit that a lease should be able to be used when the total project cost is less for a lease and it should be subject to the same provisions as a bond. It would then be subject to an election, which adds expense, and to state aid.

Lease purchase agreements have another advantage when properly constructed. There are two types of leases. One is based on Certificates of Participation and the other is Direct Placement. My opinion is that Direct Placement leases are the best because Direct Placement offers more flexibility. With Direct Placement leases you are given an amortization table that permits paying the lease in full at anytime during the lease without penalty. Although Certificates of Participation and bonds frequently have call provisions, they never have the complete control of the school district as does Direct Placement. In terms of business sense that control is an advantage over bonds as the district's financial condition may unexpectedly permit debt payment beyond the scheduled payments.

There are those in Kansas that believe a lease-purchase is bad business and I know from experience that it is frequently the best business. In fact, my experience tells me that almost all projects under \$1,000,000 are best handled with a lease-purchase and almost all projects over \$2,000,000 are best handled with a bond. Between the two figures becomes dependent on a lot of other circumstances.

I would encourage you to give careful consideration to this bill as your action will set a course that will not be reversed easily. Lease-purchase agreements have worked to the benefit of many school districts and their taxpayers and I would encourage you to protect lease-purchase as an option for Kansas School Boards and Kansas taxpayers.

May I answer any questions?



Tuesday, February 04, 1997

Senator Lana Oleen  
State Capital Room 136-N  
Topeka, KS 66612

Dear Lana:

I wanted to send you this short letter to clarify the position of Baystone Financial Group and Kansas State Bank of Manhattan on the proposed SENATE BILL No. 13. Please recall that this Bill proposes a further restriction on the ability of School Districts in Kansas to enter into Lease Purchase Agreements by amending K.S.A. 1996 Supp. 10-1116c.

Both Baystone Financial Group and Kansas State Bank of Manhattan are opposed to the revisions to this statute. These revisions place further restrictions on schools districts in Kansas to enter into the Lease Purchase Agreements by requiring the protest publication for even the smallest of real property transactions. We feel that these restrictions are not necessary because they do not allow a school superintendent and a school board to utilize a lease purchase agreement for a very simple real property project (new cafeteria, gymnasium, additional classrooms, etc) without facing a 5% protest petition and then the hassle of a general election.

There are sufficient safeguards in the Kansas Statutes including the current provisions of the Kansas Cash Basis Laws which prevent any perceived abuses of the Lease Purchase financing. (See also K.S.A. 72-8225). There is absolutely no need to further restrict the school's ability to utilize this method of finance.

Baystone Financial Group and Kansas State Bank have financed hundreds of Municipal Lease Transactions for Kansas Municipalities. This method of finance is widely accepted by all the municipalities including the School Districts and has proven to be a far more cost efficient method of finance compared to traditional bonding. Every superintendent that we have worked with in Kansas was very pleased with the Lease Purchase method because of the flexibility of the payment terms and because the costs of a Lease Purchase were a fraction of the costs of issuing bonds.

Although tomorrow's hearing is not the proper forum for a repeal of some of the restrictions that have recently been placed on the school districts under the Cash Basis Law, we would at some point in time strongly support such a repeal. I feel confident that we could gather the support and could produce the evidence that the Lease Purchase method of finance should be used more in Kansas because it saves the taxpayer's money.

Please feel free to give me a call if you have any questions or if you would like to further discuss anything that I have stated above.

Sincerely,

A handwritten signature in cursive script that reads "H. Evan Howe".

H. Evan Howe  
Executive Vice President

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ASSOCIATION FOR  
GOVERNMENTAL  
LEASING & FINANCE  
MEMBER

*Senate Education  
2-5-97  
Attachment 3*