

MINUTES OF THE HOUSE EDUCATION ON EDUCATION.

The meeting was called to order by Chairperson Representative Ralph Tanner at 9:00 a.m. on March 13, 2000 in Room 313-S of the Capitol.

All members were present except: A quorum was present

Committee staff present: Avis Swartzman, Revisor of Statutes
Ben Barrett, Legislative Research Department
Carolyn Rampey, Legislative Research Department
Renae Jefferies, Revisor of Statutes
Linda Taylor, Committee Secretary

Conferees appearing before the committee: Representative Tim Carmody
Representative David Adkins
Dr. Jim Yonnaly, Shawnee Mission Schools
Fred Kaufman, Hays USD 489
Stacey Farmer, KASB

Others attending: See Attached List

Hearings on **HB 2934 - School district finance, local option budgets, state prescribed percentage** were opened.

Representative Tim Carmody appeared before the committee as a proponent of the bill. He gave a brief explanation of the bill and why he introduced it. (Attachment 1)

Representative David Adkins also appeared before the committee as a proponent of **HB 2934**. He stated that this is the most important issue before his constituents right now. (Attachment 2)

Dr. Jim Yonnaly, representing Shawnee Mission USD also appeared before the committee in support of **HB 2934**. He stated that he supports the bill because he feels the matter should be left to the local boards to decide. (Attachment 3)

Fred Kaufman, Hays USD 489, appeared before the committee in opposition to **HB 2934**. He stated that he believed this bill would further de-equalize school funding. (Attachment 4)

Stacey Farmer, KASB, appeared before the committee as an opponent of the bill. She stated that school funding should remain a state responsibility. (Attachment 5)

Hearings on **HB 2934** were closed.

Representative Tanner moved to present a resolution to change the SBOE membership to eleven members. Representative Helgerson seconded the motion. The motion passed.

The next meeting is scheduled for March 14, 2000.

The meeting was adjourned at 10:55.

HOUSE EDUCATION COMMITTEE

GUEST LIST

DATE: March 13, 2000

NAME	REPRESENTING
Jim Zvanally	USD # 512
Ashley Sherard	Overland Park Chamber
Stacy Farmer	KASB
Jaquie Dukes	SQE

TIM CARMODY

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HOUSE OF
REPRESENTATIVES

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CHAIR—JOINT COMMITTEE ON PENSION,
BENEFITS AND INVESTMENTS
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TESTIMONY ON HB 2934

By Rep. Tim Carmody

March 13, 2000

HB 2934 is simple and straightforward. It allows those school districts which have experienced declining enrollment in three of the preceding four years and have reached the maximum 25% limit on their local operating budget (LOB) to raise their LOB to 35%. The district's resolution is subject to a protest petition. The source of funding is a property tax levy within the district.

There are scores of school districts which are experiencing declining enrollment and will continue to do so for the foreseeable future. A decline in enrollment means less state aid, but does not result in a corresponding reduction in expenses. When a large district experiences a decline in enrollment, the decline is spread across several schools and classrooms and the district is unable in the short run to realize any significant savings. For example, in the Shawnee Mission School District, a decline of 200 students is actually spread across 43 elementary schools, 7 middle schools and 5 high schools. If the decline were spread only over the elementary schools, the average is still less than 5 students per facility. Most classrooms would not see any decline. In the short term, no teachers can be laid off, no facilities closed and no significant savings can be realized. Therefore, although these districts are receiving the same per pupil aid as other districts, their fixed costs per pupil are rising significantly.

On the other hand, districts which are experiencing increasing enrollment benefit. In and of itself an increase of 200 students over 43 schools would not require a significant increase in staff or facilities but the district would still receive the state aid for each of those students and the district's fixed costs per pupil would fall.

In the Shawnee Mission School District, closing a facility may not be desirable even if an elementary school lost 30 to 40 students because of the demographics of the district. In that

district, the phenomenon of "gentrification" is a fact of life. As the median age of the population ages in a given attendance area, fewer children attend the neighborhood school. But over time the population turns over and the housing stock is purchased by younger families with children who need schools. HB 2934 gives the district a choice of raising local taxes to keep the neighborhood school open in anticipation of a future rise in enrollment or closing the facility and redrawing attendance areas.

In the Shawnee Mission district, this latter point is particularly relevant due to K.S.A. 72-8136a through 72-8136e. These statutes allow patrons in an attendance area to prevent closure of a school. I faced with these facts, a third option could be added to the present choice between "close the school" or "cut services to the rest of the district". HB 2934 would allow the patrons of the district to levy a tax on themselves in order to keep a facility open without imperiling services to other area.

In those districts where gentrification is unlikely to occur in the foreseeable future, but where stabilization is foreseeable, the school board can again consult with its patrons and make a long term decision to keep facilities open, consider use of cooperative programs or consolidate with another district.

In either case the citizens in urban or rural school districts will be give an additional tool to carry out their obligations without accessing state school finance funds which, after all, are the contributions of all taxpayers of the State.

It is also necessary to address the perception that a local option budget cannot exceed 25% without the whole school finance scheme collapsing. The 25% LOB limit is the result of a deliberate choice made by the authors of the current school finance formula, not a mandate of any court and certainly not a constitutional mandate. There may be consequences if it is abandoned, but such consequences may be positive, not negative.

The LOB limit of 25% is said by some to be required as a result of the court decision that struck down the old School District Equalization Act (SDEA) and the subsequent decision approving the current school finance act. This is not the case. The Kansas Supreme Court approved the current formula because it complied with the provisions of the Kansas Constitution, but at no time did the court say that this was the only acceptable way to finance our public schools. In other words, the legislature passed the act, including the 25% LOB limit, and then asked the Court if the formula complied with Article 6, Section 6 of the Kansas Constitution which says that "The legislature shall make suitable provision for the finance of the educational interests of the state." The current formula is "suitable", not required.

In my opinion the real reason a 25% limit on the LOB was enacted was driven only secondarily by concerns over equalization. The real reason was that the drafters chose to treat certain funds received from the federal government, known as federal impact aid or P.L. 81-874 funds, in one of two ways allowed by federal law. Their choice of how to treat those funds in turn meant that the State had to comply with the 25% limit in order to receive the funds.

Let me explain. Federal impact aid is targeted to school districts which have a disproportionately large number of military and federal government employees. Two examples are the districts serving Ft. Riley and Leavenworth. The program is intended to partially compensate the district for property taxes and retail sales taxes unrealized due to the federal facilities. In the 1999-2000 school year the State should receive about \$7.4 million under this program, compared to \$8.0 million in 1994-95.

States which are otherwise eligible for P.L. 81-874 funds have three choices:

1. Don't accept the aid,
2. Treat the funds as a "local resource" of the affected school district, or
3. Allow the school district to receive the funds but ignore the payment in the distribution of state aid to that district.

If local schools received no state aid and were solely funded by local taxes the third option would be the logical choice - as replacement for local taxes lost due to the federal facility. But when the current school finance formula was devised, the second option was chosen because it allowed the state to offset the impact aid the district receives, thus freeing the state to reallocate the funds to all districts statewide and increase the total for all districts.

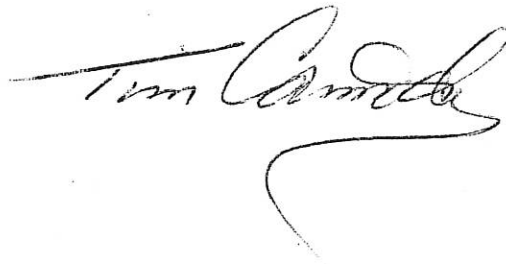
But because we chose the second option the state must now comply with the arcane regulations of the U.S. Department of Education which require that the state have an equalization formula in which the difference between the weighted operating expenditures for the 95th percentile and the 5th percentile cannot exceed 25%. On the assumption that you are still with me, let's add another layer of complexity! As just stated, 25% is the difference, not between the highest and the lowest expenditure districts, it is the difference between the 95th and the 5th percentiles. In other words, a given school district could be above the 95th percentile in per pupil expenditure but not "stretch" the differential between the 5th and 95th percentiles.

Curiously, under the current statute the 99th and the 1st percentiles also vary no more than 25%. In fact, to speak of percentiles in the current formula is somewhat misleading. Districts are not spread evenly across a continuum because all districts that do not have a LOB (most districts) are clustered at one end of the scale, those with the maximum LOB are clustered at the other end and the handful of districts with LOBs of 1% to 24% are scattered in between. In the current school year, the Shawnee Mission District has a weighted enrollment of 33,436.7 out of a state wide weighted enrollment of 573,742.9. This district represents 5.8278% of all weighted students.

There are several responses to the concern with federal impact aid.

1. If we do break the 25% differential, we will still receive federal impact aid, but we cannot use it to offset state aid. The affected districts will receive both state aid and impact aid.
2. Due to declining enrollment in USD 512, but an increasing weighted enrollment state wide, the difference between the 5th and 95th percentile could still be within the 25% range.
3. The U.S. Department of Education regulations are based upon actual expenditures, not authorized expenditures. We cannot tell at this time if disequalization under those regulations will actually occur.

In conclusion, please allow school districts that want to use their own local resources to address the financial problems created by declining enrollment to do so by voting for HB 2934.

A handwritten signature in black ink, appearing to read "Tom Condit". The signature is fluid and cursive, with a long, sweeping underline that extends to the right and then curves back down.

Testimony in Support of HB 2934
House Committee on Education
Monday, March 13, 2000

Chairman Tanner, Members of the Committee:

I am pleased to appear today and offer my support for your favorable action on HB 2934. Accessing additional funds for public education is in my opinion the single most important issue to the citizens of my district. I believe this bill provides a reasonable and fair method of allowing school districts to access additional funds.

This bill is important for several reasons which I wish to review briefly:

- Economic Development
- Educational Achievement
- Greater Local Flexibility
- Bridges the Gap until the School Finance Formula Can Be Revised

Please know that public education and the financing of public schools is a critical issue to many of my constituents. Your favorable consideration of this bill will do much to serve their interests and advance the interests of the entire state.

I urge your favorable consideration of HB 2934 and thank you for this opportunity to appear.

Respectfully submitted,

David Adkins
State Representative

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Attachment 2

TESTIMONY BEFORE THE HOUSE COMMITTEE ON EDUCATION
MARCH 8, 2000

Presented by Dr. Jim Yonally, on behalf of Shawnee Mission Schools

Mister Chairman, and members of the committee, I want to thank you for the opportunity to appear before you today, and speak in support of HB 2934, a bill that is important to the Shawnee Mission district as well as many other districts in the state of Kansas who are experiencing a decline in enrollment. Before I get into my formal testimony, I want to share some information with you about the current, and projected, budget situation in the Shawnee Mission District. (Separate information sheet)

You might say, "if you are declining in enrollment, can't you reduce your budget, since you have fewer children to educate?" We have been losing about 250 students per year, but with 56 schools, that's an average of less than 5 students per school. The reduction doesn't all come from the same school, or even the same area. Also, we average about 2,000 students per high school. Losing 20 to 30 students in one of those schools, which we sometimes do, wouldn't allow us to reduce staff, nor any other costs at all. We have already made cuts in services not directly related to children. The combination of small increases in state aid that have, consistently, been less than the rate of inflation, and declining enrollment, makes adequate funding for education an extreme challenge for us.

As I understand it, HB 2934 allows a local board of education, subject to voter approval, to adopt an additional LOB, but only if the district has had declining enrollment for three of the last four years, and is currently using the full 25% LOB provided for in the law. The bill further provides that this additional LOB would be equalized, in the same fashion as the LOB is in the current law. That is, poor districts will receive more assistance in funding, wealthy districts less, and in our case, nothing.

Yet, as important as this bill is to every school district in the state, there will probably be those who will oppose it's passage. For example, there may be those who would oppose this bill on the grounds that it will disrupt the concept of "equal educational opportunity". First, the Supreme Court of Kansas made it clear in a 1994 decision that there is NO constitutional requirement that the legislature provide an "equal educational opportunity". What the court did say was that every child had the right to an adequate education. But "equal educational opportunity" has such a nice ring to it. It sounds like something that we should be for even if the courts don't require it. There's just one little problem, no one has been able to describe just what it means. I believe it was that same court case that said it didn't mean equal expenditures in every district. So what is an EQUAL education? Is it teachers of equal ability? Is it a curriculum of equal quality? Is it having the same number of computers, or library materials? Even if we could agree on some list of criteria on which to measure equality, we would find that we have never had equal education across the state, or from building to building, or even from classroom to classroom.

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Attachment 3

Also, some may charge that, if we allow an increase in LOB, the "wealthy districts will use it, but the poor ones cannot". That claim, clearly, is not true. The use of the LOB is "equalized". As stated earlier, wealthier districts get less assistance, whereas poor districts get more state assistance. The designers of this law decided that they should only equalize the LOB to the 75th percentile. I'm assuming that they felt it was equitable in 1992, and must still be so today, because there has been no effort on their part to make any change in this provision in the eight years since it's adoption.

I realize that some people believe that every dollar of educational spending should come from the state, with no local involvement, whatsoever. They are the people who have always opposed even the concept of an LOB, and they will, I assume, oppose the expansion of the LOB. We believe, on the other hand, that educational funding should be a partnership between the local taxpayers and the state. We think local boards should have more control over the operation of their district, and that budget decisions shouldn't be placed solely on the shoulders of state lawmakers. However, if you believe that funding for elementary and secondary education should be totally (or nearly so) a function of the state, with as little local decision-making authority and responsibility as possible, we would understand your opposition to this bill.

In conclusion, we are here supporting HB 2934, just like we were here a couple of weeks ago supporting HB 2946, and as we supported SB 570 in the senate, and as we will support HB 2901, if it gets a hearing. In short, I believe we will be supporting EVERY bill that will allow school districts to increase their spending on behalf of the students in their district. As I mentioned earlier, it is unfortunate that there are some who oppose more local control for schools, and more importantly, oppose more spending for education.

I would be happy to stand for questions.

Testimony against House Bill 2934 for House Education Committee

March 13, 2000
Fred Kaufman, Superintendent
Unified School District No. 489, Hays

Increasing the Local Option Budget

It is very difficult for me to testify against the local option budget increase. I clearly understand why school districts would support it. Increases have not equaled inflation and this has created problems for all of us. For those of us who have lost funding because of declining enrollments, it's almost a situation of desperation.

We have had the full local option budget from almost the beginning and it has done many good things for us. A prime example would be our all day kindergarten programs. If I understand the finance proposals currently before the legislature, USD 489's general fund will have about \$500,000 less next year than it had this year. How do we cut \$500,000? An increase in the local option budget providing we could persuade taxpayers to approve it, would offset this loss. I cannot in good conscience support this proposal. There are unacceptable inequities in the current formula. This proposal would increase those inequities.

We currently levy 20 mills that support our local option budget. The increase would require another 7. School districts who can get these increases approved would again be able to move ahead of those who couldn't. Again, all day kindergarten is an example. Our children have all day kindergarten because we have the local option budget approved. Those who couldn't get it approved don't have it. This legislation will increase disparities of this nature.

I would also call to your attention that a 10% increase in the local option budget in some districts would be \$800 per student. In ours it would be about \$400 per student. Again, inequities are increased.

Even though I understand the reasoning behind it, I could not and Schools for Fair Funding could not support a proposal that would further disqualify school finance.

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Attachment 4



TO: House Committee on Education
FROM: Stacey Farmer, Governmental Relations Specialist
(Also representing Kansas National Education Association)
DATE: March 13, 2000
RE: **Testimony on H.B. 2934 – LOB for Declining Enrollment Districts**

Summary:

The bill would provide a 35% LOB for districts that are currently using the full authority provided by a "25% continuous and permanent resolution" and have experienced declines in enrollment in three of the past four years. This year districts meeting both those criteria include USD 202-Turner, USD 489-Hays, USD 512-Shawnee Mission.

Mr. Chairman, Members of the Committee:

We appear today in opposition to H.B. 2934. We agree that the problem of declining enrollment needs to be addressed, but we do not agree that expanding the local option budget is the right solution.

Both KASB and K-NEA are participating in the school finance coalition. Both last year and in the current session, the coalition has made declining enrollment a priority issue. In both years, members of the coalition have supported allowing districts to use the highest of the current or past two years enrollment for budget purposes. We encourage the committee to adopt that approach.

We agree that districts experiencing declining enrollment require additional budget support to preserve educational programs for children. A growing number of districts will face this problem. However, H.B. 2934 only provides this relief only to districts that have adopted "a continuous and permanent" LOB of 25%. Furthermore, this additional authority is subject to protest petition. It is important to remember that most districts cannot raise their LOB to 25% without being subject to protest petition. Because it is largely funded by property tax, the LOB may become a lightning rod for property tax opponents rather than educational needs. In addition, the LOB is not fully equalized. The districts with the highest property wealth per child can increase their LOB with less tax effort than poorer districts.

For these reasons we believe that addressing declining enrollment is a state responsibility, and should be funded by state resources. If addressing this problem requires a tax increase – and it is increasingly clear it does – this should also be a state responsibility.

Thank you for your consideration.

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Attachment 5