

MINUTES OF THE SENATE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Senator Dwayne Umbarger at 1:00 p.m. on February 5, 2001 in Room 123-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Ben Barrett, Legislative Research Department
 Dale Dennis, Deputy Commissioner, KS Board of Education
 Craig Grant, KNEA
 Mark Tallman, KASB
 Brilla Scott, USA

Others attending: See attached list

Chairman Umbarger introduced Ben Barrett, Legislative Research Department. Ben gave a report on the court ruling decisions on Local Option Budget (LOB). (Attachment 1)

SB9—Curriculum standards, intervals for review
SB24—Teacher Due Process—Schools for the blind and deaf
SB25—Teacher Due Process—Listing of Hearing Officers and compensation therefor
SB78—School district finance; contingency reserve fund

Ben Barrett gave an overview of the four bills. **SB9** is a bill that allows the State Board of Education to review its curriculum standards every five years instead of every three years. The bill was recommended by Special Committee on Preschool and K-12 Matters. **SB24** is a bill recommended by the State Board of Education. The purpose of the bill is to make the laws governing teacher due process at the State School for the Deaf and the State School for the Blind the same as the laws that apply to school districts. **SB25** was also recommended by the State Board of Education. It deals with the difficulties the board has in maintaining a list of hearing officers to deal with the due process law. The bill reduces the number of potential hearing officers from nine to five and eliminates from the law the amount of compensation (\$240 a day) paid to the hearing officers per day. **SB78** was introduced as a recommendation of the task force. The bill would increase the contingency reserve fund to 7.5%.

Testimony was heard from the following and all were in favor of the bills under discussion:

Dale Dennis, Deputy Commission of Education. Dale gave a brief summary in favor of **SB 9, SB24 & SB25**. (Attachments 2, 3 & 4)

Craig Grant who spoke in favor of **SB24 & SB25**. His testimony is in (Attachment 5 & 6). Craig also stated that he supports **SB9** and **SB78**.

Mark Tallman who spoke favorably for **SB9, SB24, and SB25** (Attachment 7) He also supports **SB78**.

Brilla Scott followed with her comments to support **SB78**. (Attachment 8)

Written testimony was offered by Gary George, Assistant Superintendent, Olathe School District in support of **SB 78**. (Attachment 9)

CONTINUATION SHEET

February 5, 2001

Senator Vratil made a motion to pass **SB9** and **SB24** favorably and place them on the consent calendar. Seconded by Senator Schodorf. Motion passed.

Senator Lee made a motion to pass **SB25** and **SB78**. Seconded by Senator Teichman. Senator Vratil offered a Substitute motion to amend **SB 78** to make it effective on publication of the register. The Substitute motion was seconded by Senator Lee. Motion passed. Senator Lee made a motion to pass **SB25** and **SB78** as amended. Seconded by Senator Teichman. Motion Passed.

Chairman Umbarger announced that the Joint Education Subcommittee on the Boundary Study will meet at 5:00 p.m. today. Meeting adjourned at 2:00. The next meeting will be at the regular time on February 6, 2001.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE - 2-5-01

NAME	REPRESENTING
Mark Tallman	KASB
Jacquie Debes	SCFE
Denise Apt	U.S.A., K.C.K.
Brilla Scott	USA
Donald Knowles	U.S.A.
Alex Kotlyantz	Ks. Academy of Science
Nirshul Poor	Citizen
Jim Allen	KEC • KELC
Bill Brady	Schools for TAN Funding
Josie Torres	KCDD

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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February 5, 2001

To: Senate Committee on Education
From: Ben F. Barrett, Director
Re: School Finance—What the Court Has Said About the Local Option Budget
(LOB) Provision of the Kansas School Finance Law

The Kansas Supreme Court in the case of *USD No. 229 v. State*, 256 Kan 232 (1994), reversed an earlier Shawnee County District Court ruling and confirmed the constitutionality of the School District Finance and Quality Performance Act. The reversal dealt with the law's low enrollment weighting provision.

The Supreme Court's opinion contains a description of the main features of the LOB, but does not devote any specific analyses to it other than to confirm that it is subject to a rational basis test which the Court found was met.

The Shawnee County District Court addressed this provision of the law more fully. This discussion is attached.

33359(2/5/1(8:23AM))

Senate Education
2-5-01
Attachment 1

ATTACHMENT

Excerpt From Shawnee County District Court Decision of December 16, 1993,
in the Consolidated School Finance Litigation
(90-CV-206; 92-CV-1099, 92-CV-1175, and 92-CV-1202)

RE: LOCAL OPTION BUDGET

Is There a Rational Basis for Having a Local Option Budget?

The legislative history reveals several purposes for the local option budget: (1) to account for the differences in needs and costs from district to district; (2) to reduce spending differentials while accommodating local needs and (3) provide some degree of local control of finances. The evidence reveals that each of the goals was met, at least as of the 1991-92 school year.

First, the provisions allow flexibility in the formula to account for local variations. The premise of this Act is that there should be substantial equality in spending, but there must be recognition that needs vary. The concept of weighting is that needs vary student to student, location to location. In other words, some students cost more to educate than others.

The legislative and judicial records are replete with evidence of differing needs. For example, during the trial the Southwestern Districts persuasively argued that remoteness significantly influenced the costs associated with attracting teachers and paying for services such as technical assistance for computers. To account for the difficulty in attracting teachers, many districts have provided higher salary and benefit schedules. Other differences arise because of the geographic distances to culturally and educationally enriching opportunities which districts may wish

to make available to students, including commonly accepted extracurricular activities such as debate, forensics, musical competitions, and athletic events. Larger districts cited security concerns. Cost of living varies across the state. Special community needs or concerns may exist.

Accommodation of these various needs is not at odds with the constitution. When the revisions to article 6 were proposed, an alternative of requiring "uniformity" was presented and rejected by the drafters. What is required by the Kansas constitution is equal funding unless a rational basis exists for a disparate classification the accommodation of which results in an equal educational opportunity. To accomplish this, some expenditure disparities will exist.

Allowing for these variances does not necessarily result in spending disparity. In fact, the evidence presented at trial indicated that the impact of the local option budget was consistent with its intended purpose of narrowing the range of spending per pupil. In 1992-93, the utilization of the local option budget lowered the coefficient of variation from .1933 to .1748, a reduction of almost ten percent (10%). The reduction results from greater utilization of the local option budget by low spending districts than by higher spending districts. Hence, while the long-term effects of the local option budget cannot be assessed because of the limited number of districts which had the option available during the 1992-93 school year, the effect in the transitional year was to reduce the overall spending differences among Kansas public school districts.

With regard to the third legislative goal, there was also substantial testimony that the local option budget had played a significant factor in promoting local control. Those districts involved in a protest petition and subsequent election found a need to involve patrons of the district in a dialogue regarding expenditures and educational expectations.

Hence, the evidence establishes that, at this point in time, the provisions are rationally related to legitimate legislative goals.

Is There a Rational Basis for
the State Aid Component?

Plaintiffs also attack the legislative decision to extend equalization through supplemental state aid only to districts at or below the seventy-fifth (75th) percentile of assessed valuation per pupil. Plaintiffs argue this is an arbitrary cutoff which has no rational basis. The purpose, in part, of the equalization is to counteract any correlation between differences in spending and district wealth. Under SDEA, twenty-five percent (25%) of the variation in spending among school districts was attributable to school district wealth, that is the assessed valuation in the district for each student enrolled. Under the Act, only five percent (5%) of the variation in spending is attributable to wealth. Hence, at least at the current time (remembering that because of the transitional cap not all districts were eligible to utilize the local option budget when the experts prepared this analysis), there is not a significant correlation between district wealth and the disparities. As a result, there is not sufficient evidence to conclude that a demarcation at seventy-five percent

(75%) has resulted in disparities because of wealth. A valid conclusion, therefore, is that the determinations to utilize the local option budget have arisen because of needs perceived to exist by local boards and their electorate.

Furthermore, it was not arbitrary and capricious to draw a line at seventy-five percent (75%). Eighty-four percent (84%) of the public school students in Kansas attend a school at or below the seventy-fifth (75th) percentile in assessed valuation per pupil. In comparison to other states' equalization formulas, inclusion of eighty-four percent (84%) of students in the guaranteed tax base mechanism is fairly high coverage. Those districts which are not included have considerably more district wealth than those districts which receive aid. Less tax effort is needed to raise the dollars determined necessary.

Hence, while the utilization of the seventy-fifth (75th) percentile may not be scientifically based, the goals of the statute are being met and the cutoff cannot, therefore, be said to be so wide of the mark as to lack a rational basis.

Is There a Rational Basis for
Capping the Option at Twenty-Five Percent?

Finally, Plaintiffs attack the local option budget because of what they argue is an arbitrary cap set at twenty-five percent (25%). The legislative record reveals a concern that the local option budget not develop into a mechanism which allows wide disparities in spending which strongly correlate with district wealth. Many courts, even those in jurisdictions such as Kansas which do not have uniformity requirements, have condemned disparities where such a correlation is evident. To guard against wealth-based disparities, the legislature made the policy decision

to cap the option so that wealthy districts could not fund local schools at a level highly disproportionate to other districts' spending. Despite the cap, the Newton Plaintiffs argue that eventually there will be wealth-based disparities because poorer districts will not be able to afford to utilize the local option budget. There is some logic to this argument, especially in light of the history of SDEA.

However, even though logical, the course in the first year disproves the theory. The evidence is that the gap in spending lessened because of the local option budget. Further, statistical evidence does not show evidence of correlation between wealth and the local option budget as exercised by districts in 1992-93. Hence, based upon the evidence before the court there is a rational basis for the cap and evidence that the goals of the legislature are being met.



Kansas State Department of Education

120 S.E. 10th Avenue
Topeka, Kansas 66612-1182

February 5, 2001

TO: Senate Education Committee
FROM: State Board of Education
SUBJECT: Senate Bill 9

Senate Bill 9 is a bill requested by the State Board of Education and recommended by the Special Committee on Preschool and K-12 Matters. This bill increases the requirement for review of curriculum standards to every five years rather than the current three-year requirement.

This change in the law will provide better longitudinal data on state assessments than current law.

Senate Education
2-5-01
Attachment 2



Kansas State Department of Education

120 S.E. 10th Avenue
Topeka, Kansas 66612-1182

February 5, 2001

TO: Senate Education Committee
FROM: State Board of Education
SUBJECT: Senate Bill 24

Senate Bill 24 is a bill requested by the State Board of Education. The purpose of this bill is to make the laws governing teacher due process at the State School for the Deaf and the State School for the Blind the same as the laws that apply to school districts. The State Board believes it is appropriate that certified teachers at the two state schools be treated the same as certified teachers in school districts.

On behalf of the State Board, I would request favorable action on this bill.

Division of Fiscal & Administrative Services

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Senate Education
2-5-01
Attachment 3



Kansas State Department of Education

120 S.E. 10th Avenue
Topeka, Kansas 66612-1182

February 5, 2001

TO: Senate Education Committee
FROM: State Board of Education
SUBJECT: Senate Bill 25

Senate Bill 25 is a bill requested by the State Board of Education due to difficulties in administering current law. Specifically, this law requires that all hearing officers for teacher due process hearings be attorneys. It also provides that the State Board is to send a list of nine potential hearing officers whenever the need for a hearing arises. Also, a second list of nine officers can be requested and must be sent.

In addition, current law limits the amount a hearing officer can be paid to \$240 per day. Because of this limit, we have had very few attorneys choose to be on our list of potential hearing officers. In fact, we now have only 17 attorneys on the list.

Therefore, in order to encourage more attorneys to serve as hearing officers, the State Board recommends that the law be amended to remove the payment limitation. Also, we ask that each list of potential hearing officers contain five names, rather than nine since there are only 17 people on our list.



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Craig Grant Testimony
Senate Education Committee
February 5, 2001

Thank you, Mr. Chairman. I am Craig Grant and I represent the Kansas NEA. I appreciate this opportunity to visit with the Senate Education Committee about Senate Bill 24.

Kansas NEA supports SB 24 as it will provide equal treatment to teachers in the School for the Blind and School for the Deaf with other teachers in our state. As we have made changes in the due process law from time to time, we have usually passed a separate bill to provide the teachers at the schools for the deaf and blind the same provisions. Sometimes it has taken a couple of years before we remember to change that portion of the law affecting these professionals. This time it has taken us eight years to remember to make that change.

The need to make this further change came to mind when we needed to use the process in one of the schools last summer. We found that the law was as it had been written for other teachers before the 1991 and 1992 changes. This really is an oversight that we believe should be remedied.

Kansas NEA supports SB 24 and would ask the Senate Education Committee to report it favorably. Thank you for consideration of this matter.

*Senate Education
2-5-01
Attachment 5*



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Craig Grant Testimony
Senate Education Committee
February 5, 2001

Thank you, Mr. Chairman. I am Craig Grant and I represent the Kansas NEA. I appreciate this opportunity to visit with the Senate Education Committee in support of Senate Bill 25.

Just as we have visited about the teacher shortage because of lack of adequate pay, we are finding that our list of hearing officers is dwindling because of inadequate compensation. Attorneys who serve as hearing officers are forced to take a "cut in pay" to serve as hearing officers instead of working at their regular practice.

Kansas NEA believes SB 25 is a solution to this problem. Just as arbitrators set their own daily fee, we believe attorneys will be able to set a reasonable fee for being a hearing officer. Since there are so few hearings per year (our general counsel indicated about 2-3 per year), we believe this will not pose a hardship on the district. What it will accomplish will be to give us a longer list of competent hearing officers from which to choose.

Kansas NEA supports SB 25 and hopes that the Senate Education Committee will report it favorably. Thank you for listening to the concerns of our members.

Senate Education
2-5-01
Attachment 6



TO: Senate Committee on Education
FROM: Mark Tallman, Assistant Executive Director for Advocacy
DATE: February 5, 2001

RE: **Testimony on SB 9 – Curriculum Standards,
SB 24 – Teacher Due Process at the State Special Schools, and
SB 25 – Teacher Due Process Hearings**

Mr. Chairman, Members of the Committee:

In the interest of conserving both time and paper, I am providing testimony on these three bills scheduled for hearings today in one statement. We appear as proponents of each measure.

SB 9 – Curriculum Standards

SB 9 would extend the maximum time between reviews of state curriculum standards from three to five years. The purpose for this proposed change is to allow greater stability in state assessments in core academic areas, which by law are based on these standards. One of the major concerns raised by school districts about the state assessment program has been the number of changes in the program, which complicate planning and make measurements of progress more difficult. We believe SB 9 would help address these problems.

SB 24 – Teacher Due Process at the State Special Schools

SB 24 would provide the same due process procedure for teachers at the state schools for the blind and deaf as is applied for teachers in unified school districts. Although KASB believes there are serious problems in the current due process law for school districts, we do not believe there is any public policy reason for keeping teachers in the special schools under a difficult system. Our endorsement for this bill, which creates a single system, should in no way be viewed as support that system, as noted in comments on the following bill.

SB 25 – Teacher Due Process Hearings

SB 25 reduces the number of hearing officers on the list proposed to the teacher and the school board and removes the specified dollar amount to paid to hearing officers. The reason for this bill is the shortage of qualified hearing officers. KASB agrees that these steps are appropriate if we retain the current system. However, we believe that the most significant problem in the area of teacher due process is the hearing officer process itself. It is a system that unnecessarily prolongs the process of removing tenured teachers, increases the cost and provides no standard for cause in removing teachers. We believe a better system would be allow the local school board to conduct the hearing and allow the teacher to appeal the board's decision directly to district court. Such a change would remove the need for this bill.

Thank you for your consideration.

*Senate Education
2-5-01
Attachment 7*

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Don Knowles
Professional Development
Coordinator



Kansas Association of
Elementary
School Principals
(KAESP)

Kansas Association of
Middle School
Administrators
(KAMSA)

Kansas Association of
School Administrators
(KASA)

Kansas Association of
School Business
Officials
(KASBO)

Kansas Association for
Supervision and
Curriculum Development
(KASCD)

Kansas Association of
Special Education
Administrators
(KASEA)

Kansas Association of
Secondary School
Principals
(KASSP)

Kansas Council of
Vocational
Administrators
(KCVA)

Kansas School
Public Relations
Association
(KanSPRA)

SB 78: School District Contingency Reserve Fund

Testimony presented before the Senate Education Committee

by
**Brilla Highfill Scott, Executive Director
United School Administrators of Kansas**

February 5, 2001

Mr. Chairman and Members of the Senate Education Committee:

United School Administrators of Kansas is supportive of **SB 78** which increases the contingency reserve fund to 7.5%.

This bill will allow districts to meet unexpected expenses such as utilities. I visited with a superintendent this morning who had received a natural gas bill for \$12,000 this month as compared to \$3,000 in typical months. Increasing the contingency reserve fund limits would assist this school district.

Other examples might include: Roof failure not covered by insurance, insurance deductible for a school vehicle accident, emergency mud jacking of a school building wing, and due process lawsuits.

This bill would allow school districts the same percentage of contingency reserve fund as the State of Kansas.

United School Administrators of Kansas asks you to favorably report SB 78.

(w:legis:sb78 2001)

*Senate Education
2-5-01
Attachment 8*



February 5, 2001

Senator Dwayne Umbarger & Committee Members
State Capitol, Room 401-S
Topeka, KS 66612

Re: Senate Bill 78

Dear Senator Umbarger and Committee Members:

The Olathe School District supports the passage of Senate Bill 78, which allows a local board of education to keep a 7.5% balance in its contingency reserve of the general and LOB funds. Further, this bill relaxes the requirements allowing the local board of education more discretion as to when this fund can be used.

In addition, accumulating such a reserve will help us with our bond ratings. Firms such as Moody's and Standard and Poor's prefer a balance of between 5% and 10% of revenues to address normal contingencies. The Olathe School District and other districts in the state should be able to acquire a stronger rating, which translates into lower interest rates when we issue bonds thereby saving taxpayers money.

We strongly urge the Committee to pass Senate Bill 78. If we can answer any questions you may have regarding the benefits of this bill to school districts, please feel free to contact us.

Sincerely,

Gary George, Ed.D.
Assistant Superintendent of Schools
Management Services

GG:pr

Senate Education
2-5-01
Attachment 9