

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION K-12.

The meeting was called to order by Chairperson Ralph Tanner at 9:00 a.m. on February 26, 2002 in Room 313-S of the Capitol.

Committee staff present: Ben Barrett, Legislative Research Department
Carolyn Rampey, Legislative Research Department
Jill Wolters, Revisor of Statutes
Ann Deitcher, Committee Secretary

Conferees appearing before the committee: Mark Tallman, Ks State School Board
Diane Gjerstad, Wichita Public Schools
Dale Dennis, Ks State Dept. of Education

The Chair spoke to the Committee regarding copies being distributed of an article from the Los Angeles Times analyzing the efficacy of class size. (Attachment 1).

Next to be handed out were copies of a resolution that Chairman Tanner asked members to look at and possibly offer as a resolution of the Committee only, not of the House. (Attachment 2).

HB 2864 - Concerning school districts; relating to lease-purchase agreements.

Dale Dennis explained **HB 2864** to the Committee.

Jacque Oakes offered written testimony from Schools for Quality Education in opposition to **HB 2864**. (Attachment 3).

Mark Tallman spoke as an opponent to **HB 2864**. (Attachment 4).

Diane Gjerstad appeared in opposition to **HB 2864**. (No written testimony).

The hearing on **HB 2864** was closed.

HB 2973 - Concerning schools; requiring boards of education to adopt policies on pupil discipline; providing legal support for certain actions of teachers and school administrators.

Mark Tallman spoke to the Committee in opposition to **HB 2973**. (Attachment 5).

The hearing on **HB 2973** was closed.

The meeting was adjourned at 10:35. The next meeting is scheduled for Wednesday, February 27, 2002.

TOPEKA ADDRESS:

STATE CAPITOL—426-S
TOPEKA, KANSAS 66612-1504
(785) 296-7654

TOPEKA HOTLINE

DURING SESSION - 1-800-432-3924

BALDWIN CITY ADDRESS:

1201 NINTH ST., P.O. BOX 647
BALDWIN CITY, KANSAS 66006
(785) 594-3502

E-Mail: rmtanner@ink.org

CELLULAR PHONE (785) 979-7977

STATE OF KANSAS

House of Representatives



THE CAPITOL

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COMMITTEE ON EDUCATION

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NATIONAL CONFERENCE OF STATE LEGISLATURES

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COUNCIL

ADVISORY BOARDS
TEACHER QUALITY ENHANCEMENT
NATURAL AND SCIENTIFIC AREAS

Ralph Tanner
Representative, Tenth District

MEMORANDUM

To: Members and Staff
The House Education Committee

From: Ralph M. Tanner *R. M. Tanner* 2-25-02

Re: Rand Institute study on class size

The attached article, downloaded from the web page of the *Los Angeles Times*, is something about which we have heard a great deal. Most of the attitude on the efficacy of class size has had to do with early childhood learning, especially in grades pre-K through three.

This analysis may be worth knowing about, especially when we are in the grip of an economic dilemma affecting appropriations to school districts.

House Education Committee

Date: 2/26/02

Attachment # 1-1



<http://www.latimes.com/education/education/la-020508class05a.html>

THE STATE

Role of Class Size in Success Unclear

Education: Study cannot separate the 20-student limit from other reforms in explaining academic improvements.

By SOLOMON MOORE
TIMES STAFF WRITER

February 5 2002

About two-thirds of California school districts are taking money from other programs to reduce class sizes in the first three grades, according to a study released Monday.

Despite those efforts, the report's authors said they could not definitively say that the 20-1 student-to-teacher ratio in those lower classes has spurred the recent academic improvement among California's schoolchildren.

A consortium of think tanks found that nearly all California public school districts have adopted the size reduction program since the \$8-billion experiment began six years ago. The 162-page study was headed by the American Institutes for Research and the Rand Corp. and covers 1999 to early 2001--before California's economy began to slide. Now, a statewide budget crisis is forcing many districts to make funding cuts and some are discussing whether to opt out of the class-size program.

The Irvine school system in Orange County has decided to increase its primary class sizes, and even the Los Angeles Unified School District toyed with the idea during budget talks last month.

Even before the current budget problems, most California districts reported that they had to trim other spending, such as teacher training, music classes and library budgets, to help implement class-size reductions, according to the study. A third said they shifted teachers from upper grades, which led to crowding there. Many districts complained that the state wasn't allocating enough money for the new ratios, leaving local systems to make up an average of \$150 per student.

"All of this raises the question of whether some of the money that is used for class-size reduction might not be more productively used elsewhere," RAND researcher Georges Vernez said. "I think that's probably a debate that should take place."

Brian Stecher, the report's co-author, said it is impossible to separate positive effects of smaller classes from other simultaneous reforms, such as new testing and reading programs.

"The test scores are going up, which means that something good has been going on," he said. "But what is hard to do is attribute that progress to one thing or another.

State Supt. of Public Instruction Delaine Eastin, a strong proponent of the class-size plan, said she was unfazed by the report. She noted that the greatest improvements in reading and math test scores are found among elementary school students, despite the disproportionate numbers of inexperienced teachers in the lower grades.

"Would you rather have a new teacher with 20 students or 32 students?" she asked. "I think a little bit of common sense has to be applied here."

Eastin and the authors of the report said many intangible benefits are hard to quantify. For example, the report found that teachers are spending more time with individual students in smaller classes and have fewer discipline problems.

If you want other stories on this topic, search the Archives at latimes.com/archives. For information about reprinting this article, go to www.latimes.com/prints.

The Committee on Education
The House of Representatives
Statehouse
Topeka, KS 66612

WHEREAS, this committee did hold hearings into the current practices of local school districts regarding physical education, free play, and dietary habits of elementary and secondary students, and

WHEREAS, our findings while not necessarily complete nor exhaustive in their scope, and

WHEREAS, we find little uniformity in the physical educational experience from local district to district. And

WHEREAS, it is our opinion that too little attention is being given to the physical well-being of our children, and

WHEREAS, the Centers for Disease Control, a federal agency located in Atlanta has described the state of the physical health of our children as a crisis situation with serious health conditions at large in the nation such as an elevated cholesterol count, obesity, early onset of Diabetes II, lack of appropriate cardiovascular development and other maladies which offer us a forecast of serious health problems for the current generation of children such as we have not seen before in this nation,

NOW THEREFORE BE IT RESOLVED BY THIS COMMITTEE IN SESSION ASSEMBLED, That we commend these problems to the care of the State Board of Education, and

BE IT FURTHER RESOLVED, That we recommend that the Board devise rules and regulations setting a prescribed regimen into place for the physical health and well-being of our children, and that local Boards of Education be advised that the continued accreditation of their schools will depend, in part, on their pursuit of a program of physical health and exercise for all students, including adaptive programs for those children who display physical disabilities, and

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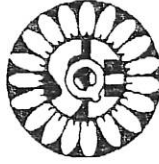
Attachment # 2-1

BE IT FURTHER RESOLVED, That the Board shall employ the expertise of specialists in Health, Physical Education and Recreation for the development of this program and as a continuing oversight body during the implementing of standards of instruction connected therewith, and

BE IT FURTHER RESOLVED, That an officer of the State Department of Education be designated, if such officer does not already exist, to undertake an advisory service for school lunches and other meals or snacks served in schools to move toward a healthier and balanced menu with fewer fats, carbohydrates, and other counterproductive foodstuff, and that the Agency seek the assistance of the U. S. Department of Agriculture in this effort.

The Committee further requests the State Board of Education to report annually to the legislature of Kansas, in January of each year, as to the state of the program envisioned above.

Done this _____ of February, 2002.



Schools for Quality Education

Bluemont Hall Manhattan, KS 66506 (913) 532-5888

February 26, 2002

TO: House Education Committee

FROM: Schools for Quality Education – Jacque Oakes

SUBJECT: HB 2864 – Concerning school districts; relating to lease-purchase agreements

Mr. Chair and Members of the Committee:

Schools For Quality Education, an organization of 110 small school districts, submits written testimony against HB 2864 which would limit lease purchase to \$10,000 without possible voter approval.

Districts frequently use lease purchase to buy such items as equipment or buses. School buses are extremely expensive, and to be able to lengthen the payments will help in a time when schools are short of money.

We believe a decision by the school board to make these purchases is all that should be necessary to carry on district business. We do know that there is a concern that school boards might overstep their purchasing powers, but the constituents in that particular district will speak at the polls.

Thank you for your vote against HB 2864.

"Rural is Quality"

House Education Committee

Date: 2/26/02

Attachment # 3

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on
HB 2864 (School District Lease Purchase Agreements)
Before the
House Committee on Education

By

Mark Tallman, Assistant Executive Director/Advocacy
Kansas Association of School Boards

February 26, 2002

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to offer comments on HB 2864. Based on our understanding of this bill, we would oppose its enactment.

This bill would apparently create a new provision restricting the ability of school districts to enter into lease purchase agreements. Currently, school districts, like counties or community colleges, may be subject to protest petition for lease purchase agreements involving the acquisition of land or buildings and providing for annual payments exceeding \$100,000. Under this bill, school districts would be singled out for different treatment. The threshold for protest petition would be lowered to \$10,000, and the type of agreement would be changed to include real or personal property, not just land or buildings.

We see no justification for treating locally elected school board members differently from locally elected county commissioners or community college trustees. These officials are elected to make decisions about the financial practices that are in the best interest of the local unit. It seems to us that this bill reduces school board management flexibility at precisely a time when we should be giving boards maximum flexibility to manage their financial affairs.

Thank you for your consideration.

House Education Committee

Date: 2/26/02

Attachment # 4

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on
HB 2973 (Student Discipline Policies)
Before the
House Committee on Education

By

Mark Tallman, Assistant Executive Director/Advocacy
Kansas Association of School Boards

February 26, 2002

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to comment on HB 2973. This bill appears to have two basic components. First it requires that school boards must "develop, adopt and broadly disseminate a written policy on rules of discipline," and specifies that copies shall be given to all school employees, parents and pupils, and requires an annual review of such rules by pupils, employees and the board of education. Second, the bill requires school boards to provide legal support for employees who enforce school discipline in accordance with these policies. While we do not object to the intent of these two components, we believe the bill is unnecessary, unduly prescriptive and may require boards to protect employees even if the employee acted inappropriately.

School districts already have discipline policies and building handbooks that they adopt yearly on behavior codes. Many districts already cover the "do not do" list with students at assemblies and with the homeroom teachers. Some districts send the book home and have parents sign it and return it to school so that the student and parent are aware of the rules. KSA 72-8901 *et. seq.* already details the discipline procedures and the six major reasons students can be disciplined. We do not believe the state statute books should include the level of operational detail contained in section two of this bill.

KSA 75-6108 already provides that governmental entities shall provide for the defense of any such civil action or proceeding against such employee, in such employee's official or individual capacity or both on account of an act or omission in the scope of such employee's employment. Under KSA 75-6108 the school district could refuse to provide a defense if the act or omission was not in the course of their employment (sexual harassment, failure to supervise, using excessive force to discipline, etc), the act was due to actual fraud or malice, or if the request was not made on a timely basis.

Current law has been carefully constructed to balance the rights of the employee with the interests of the public employers. This bill would provide a sweeping new requirement. This change should not be made without considering the context of existing statutes in this area. Current law provides boards with the needed flexibility to provide teachers with a defense when they have obeyed district policy and acted in the course of their employment. Thank you for your consideration.

House Education Committee

Date: 2/26/02

Attachment # 5-1

KSA 75-6108

(a) Upon request of an employee in accordance with subsection (e), a governmental entity shall: (1) Provide for the defense of any civil action or proceeding against such employee, in such employee's official or individual capacity or both, on account of an act or omission in the scope of such employee's employment as an employee of the governmental entity, except as provided in subsection (c); and (2) provide legal counsel to such employee when such employee is summoned to appear before any grand jury or inquisition on account of an act or omission in the scope of such employee's employment as an employee of the governmental entity, except as provided in subsection (c).

(b) A governmental entity may provide for a defense or representation by its own attorney or by employing other counsel for this purpose or by purchasing insurance which requires that the insurer provide the defense. A governmental entity has no right to recover such expenses from the employee defended or represented, except as provided in K.S.A. 75-6109 and amendments thereto.

(c) Except as provided in K.S.A. 75-4360 and amendments thereto, a governmental entity may refuse to provide for the defense of an action against an employee or representation of the employee if the governmental entity determines that:

- (1) The act or omission was not within the scope of such employee's employment;
- (2) such employee acted or failed to act because of actual fraud or actual malice;
- (3) the defense of the action or proceeding by the governmental entity would create a conflict of interest between the governmental entity and the employee; or
- (4) the request was not made in accordance with subsection (e).

(d) If after a timely request in accordance with subsection (e), a governmental entity fails or refuses to provide an employee with a defense and the employee retains the employee's own counsel to defend the action or proceeding, or provide representation, such employee is entitled to recover from the governmental entity such reasonable attorney fees, costs and expenses as are necessarily incurred in defending the action or proceeding or providing representation if the action or proceeding or representation arose out of an act or omission in the scope of employment as an employee of the governmental entity and the trier of fact does not find that such employee acted or failed to act because of actual fraud or actual malice.

Nothing in this section shall be construed to deprive an employee of the right to petition a court of competent jurisdiction to compel the governmental entity or the governing body or an employee thereof to perform the duties imposed by this section.

Except as provided in subsection (a)(2), nothing in this section shall be construed to require a governmental entity to provide the defense or representation to any employee in a criminal or civil service proceeding.

(e) An employee's request for a governmental entity to provide for the defense of the employee or representation shall be made in writing within 15 days after service of process or subpoena upon the employee in the action. In actions involving employees of the state, such request shall be filed in the office of the attorney general. In actions involving employees of a municipality, such request shall be filed with the governing body thereof or as otherwise provided by such governing body. A governmental entity, in its discretion, may provide requested defense or representation for any of its employees who failed to make a request within the time prescribed by this subsection.

(f) Notwithstanding any other provision of law to the contrary, a governmental entity may reimburse an employee such reasonable attorney fees, costs and expenses as are necessarily incurred in defending a claim against the employee for punitive or exemplary damages if the governmental entity finds that:

- 1) The action or proceeding arose out of an act or omission in the scope of the employee's employment; and
- (2) the employee reasonably cooperated in good faith in the defense of the claim.