

MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Chairperson Kathe Decker at 9:00 a.m. on March 23, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Patricia Barbieri-Lightner- excused

Committee staff present:

Kathie Sparks Legislative Research Department  
Carolyn Rampey Legislative Research Department  
Art Griggs, Office of the Revisor of Statues  
Ann Deitcher, Secretary

Conferees appearing before the committee:

Sue Gamble, Kansas Board of Education  
Mark Tallman, KASB  
Mark Desetti, KNEA

**HB 2940 - concerning schools; relating to required courses of study (continued).**

The Chair recognized Sue Gamble who spoke to the Committee of the State Board's support of **HB 2940**. (Attachment 1).

Questions and answers followed.

Mark Tallman addressed the Committee in opposition of **HB 2940**. (Attachment 2).

Another brief session of questions and answered followed.

Appearing in opposition of **HB 2940** was Mark Desetti. (Attachment 3).

Questions and answers followed.

The hearing on **HB 2940** was closed

It was moved by Representative Beggs and seconded by Representative Morrison that **HB 2940** be worked by the Committee.

The Chair offered an amendment to **HB 2940** on page 1, line 43 (b) with the deletion of "the selection of the material for the areas of instruction specified in subsection (a) and for"; on page 3, line 21 (j) delete "shall engage" and reinsert "shall engage" following "all staff"; and on page 2, line 34 (a), 35 (b) and 36 (c) with the addition of an "s" on each "service".

Representative Decker moved for these amendments be made and Representative Horst seconded the motion which passed on a voice vote.

Representative DeCastro offered an amendment to **HB 2940** on page 2, line 32, New Sec.2 following the word "provide" by deleting "the following programs and services" and replacing it with "may provide additional programs or services including but not limited to the following.

CONTINUATION SHEET

MINUTES OF THE HOUSE EDUCATION COMMITTEE at 9:00 a.m. on March 23, 2004 in Room 313-S of the Capitol.

A motion to make this amendment to **HB 2940** was made by Representative DeCastro and seconded by Representative Morrison. The motion to amend passed on a voice vote.

Returning to **HB 2940**, various members of the Committee voiced their dissatisfaction to the bill.

Representative Beggs moved that **HB 2940** be passed as amended out of Committee. The motion was seconded by Representative Morrison and passed on a show of hands, 13-7.

The Committee members wishing to be recorded for voting no on **HB 2940**, were Representatives Crow, Flaharty, Holland, Phelps, Reardon, Storm and Winn.

The Committee was advised by the Chair that copies of the minutes for March 16, 17, 18, 19, 22 and 23 would be delivered to their offices to be approved. The minutes will be considered approved unless the Committee secretary is otherwise notified by Friday, March 26.

The meeting was adjourned at 10:25 a.m. No additional meetings are scheduled at this time.



# Kansas State Board of Education

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March 22, 2004

TO: House Education Committee  
FROM: State Board of Education  
SUBJECT: House Bill 2940

I am Sue Gamble, Assistant Legislative Liaison for the State Board of Education. I appreciate the opportunity to address you on House Bill 2940.

As you are aware the State Board of Education has the responsibility to accredit and regulate the K-12 Education System of Kansas. As a part of that responsibility the Board in 2001, completely reviewed the Quality Performance Accreditation System. This review included many of the subjects listed in House Bill 2940. Our review resulted in revision to school accreditation regulations in December of 2001 that includes a specific set of quality indicators and performance indicators that a school must meet in order to be accredited in Kansas. These new regulations become effective for the 2005-2006 school year; however, a majority of the districts have asked for and been granted waivers so they can be bound by these new regulations now.

Under the quality indicators, the State Board identified the following as "programs and services to support student learning and growth at both the elementary and secondary levels:"

- a. computer literacy
- b. counseling services
- c. fine arts
- d. language arts
- e. library services
- f. mathematics
- g. physical education and health
- h. science
- i. services for students with special learning needs, and
- j. history and government including a course of instruction in Kansas history and government, as required by law.

The State Board further referenced "programs and services to support student learning and growth at the secondary level" as follows:

- k. business
- l. family and consumer science
- m. foreign language, and
- n. industrial and technical education.

It would be our preference to replace Section 1. (a) 1-17 and Section 2. a-i with the list already in regulation as adopted by the State Board. We also question the need for New Sec. 2 and 3 as these elements are already being addressed by local educators.

The State Board also questions the advisability of requiring the State Board to be responsible for the selection of teaching materials. The Board feels this would be an unnecessary intrusion into the autonomy of local districts and teaching professionals and hope you would reconsider your choice of language.

There is nothing in House Bill 2940 the Board does not support; however, all the elements listed here are a part of a quality education in the State of Kansas. The State Board and the Department of Education offers our assistance to help in refining this bill.

An Equal Employment/Education Opportunity Agency

House Education Committee

Date: 3/23/04

Attachment # 1



Testimony on  
**HB 2940 – Schools; Required Courses of Study**

Before the  
House Committee on Education

By Mark Tallman, Assistant Executive Director/Advocacy  
March 22, 2003

Madam Chair, Members of the Committee:

Thank you for the opportunity to comment on **HB 2940**.

**Section 1 (a)**

The bill amends the current statute that concerns what every accredited elementary school must teach to add a list of 17 subject areas that must be “available to all eligible Kansas public school students in grades 1 through 12. First, we do not understand what the term “eligible” means. Second, this would imply that all of these subjects must be taught in each grade level. If so, this change would certainly increase the curriculum and instructional costs in many Kansas schools, particularly elementary schools.

**Section 1 (b)**

The bill would make the Kansas State Board of Education responsible for the selection of “the teaching material for the areas of such instruction specified in subsection (a).” This would seem to give the State Board responsibility for the selection all textbooks and other curriculum material in every public school in the state. We would strongly oppose this infringement on the ability of local school boards and their professional staff to select teaching materials. KASB believes that it is appropriate for the State Board to determine curriculum standards, develop assessments based on those standards, and hold schools accountable for performance on those standards. But we also believe that local boards, representing their communities, should determine how to meet those standards, including the instructional materials and the organization of that instruction.

**Section 1 (c)**

The bill directs school districts to “take into consideration the number of students enrolled in the district and cost of providing a class or unit of study.” We want to assure the committee that this is done every time a board approves a course of studies, adopts a budget or makes personnel decisions. Local board members take their responsibility for effective management of resources just as seriously as the Legislature takes its responsibility for state appropriations.

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## Section 1 (d)

The bill indicates that “state monies appropriated for distribution to schools districts shall be deemed to be expended first to pay the costs related to providing the areas of instruction required by subsection (a).” There are a number of problems with this section.

First, what is meant by the term “state monies appropriated?” Does this include the statewide mill levy, which has been ruled to be a state tax by the Kansas Supreme Court, but is not appropriated? Does it include the local property tax portions of the Local Option Budget? Does it include appropriations for special education, bond and interest aid, teacher mentoring or professional development, school food service, transportation weightings aid, at-risk and bilingual aid, and the at-risk preschool program – all of which are appropriated by the state for distribution to school districts, but for purposes that do not appear on this list?

Second, this is problematic because Judge Terry Bullock of the Shawnee County District Court has ruled, “all school district monies are state monies.” If the Legislature does not intend to address the fundamental structure of school finance until the Supreme Court issues a definite opinion on this issue, we believe they must also resolve what distinction there is, if any, between “state” and “local” education funding.

Third, what does the bill mean when it says that state appropriated funds shall be “deemed to be expended first to pay the costs” of the required programs? Does this mean that school districts are directed to budget state funds for required programs first? If not, what is the intended impact of this statement?

## Sections 2 and 3

Section 2 of the bill contains a list of programs that every school district “may” provide. The implication is that since these programs are not required under section 1, they are not the state’s responsibility to fund. Perhaps it is intended to follow that these programs are not essential to the academic mission of the school; that they are “extras” that should be left up to local districts to fund. However, Section 3 directs school boards to adopt goals that would seem to require many of these programs.

- (a) **Nursing service.** State law requires school districts to provide or offer hearing tests, dental inspections, vision screenings and notify parents about required health tests and inoculations and maintain records of compliance. State law requires boards to offer breakfast programs unless they receive a waiver from the State Board of Education in some cases. The Legislature for years has funded a vision screening study to detect and correct vision problems that impair reading. Special education requirements – which are not even mentioned in this bill – also require providing medical or nursing services to students. Furthermore, the required district goal listed in section 3 (i) is “students are ensured to have the physical and emotional well-being necessary to live, learn and work in a modern society.” Clearly, the state has an interest in student health.
- (b) **Counseling service.** Required by the State Board for school accreditation at all grade levels beginning in 2005-06. Also, the required district goal in section 3 (h) is “students are taught an encouraged to participate in lifelong learning.”
- (c) **Library media service.** Required by the State board for school accreditation at all grade levels beginning in 2005-06. The required district goal in section 3 (e) calls on schools to provide “communication skills of students which are necessary to live, learn and work in a modern society.”

- (d) **Activities programs.** Many school leaders believe these programs supplement academic programs, including physical education, and motivating students academically. Studies show students involved in activities do better in the classroom than those who do not participate. These programs also foster the skills referred to in section 3 (g).
- (e) **Professional development for certified employees.** Required by the State Board for school accreditation. Also required by state statute, and by the No Child Left Behind Act. Section 3 (j) requires that districts “shall engage all staff in on-going professional development.”
- (f) **Extended learning time.** The No Child Left Behind Act requires that students in schools that are not making adequate yearly progress be offered supplemental services, such as extended learning time. Many children will not be able to master the required subject areas if schools do not provide additional time.
- (g) **Alternative schools.** School districts establish alternative schools to provide additional assistance to help students master the subjects identified in section one.
- (h) **Early childhood education.** The Legislature established and provides matching funds for parent education programs and at-risk preschool programs. Early childhood programs are required for special education students. If the Legislature itself has recognized that these programs assist students in mastering academic subjects, they should not be considered merely an “option” for local funding with no state responsibility for that funding.
- (i) **Technical education.** It is unclear how these programs, which would be options, differ from “career education” and “industrial technologies” which are required programs under section 1 (a).

In fact, none of these programs have been adopted by either local boards, or the Legislature simply as “frills” or “extras.” These programs, services and requirements have been created because they support the academic, instructional mission of the schools. Both Quality Performance Accreditation in Kansas, which began well over a decade ago, and the No Child Left Behind Act, are based on the belief that it is no longer enough to simply “offer” academic programs. We believe all of us – public schools and the state Legislature – must be accountable for whether or not students are actually learning.

Without the kind of support programs that section 2 of this bill would designate as “optional,” many children will not reach the lofty goals contained in this bill. Without state funding to ensure that all districts have suitable funding that includes these programs, the students in many districts will certainly be left behind.

Thank you for your consideration.



Mark Desetti, testimony  
House Education Committee  
March 22, 2004  
House Bill 2940

Madame Chairman, members of the committee, thank you for the opportunity to appear before you today to speak on House Bill 2940.

It appears to me that this bill is an attempt to limit the definition of a "suitable" education, perhaps with the intent of keeping the cost of providing a public education low. While the bill starts with a more detailed outline of the curriculum areas required of a school system in section 1 (a), sections 1 (c) and (d) put limits on how a school district can spend their state money.

In new section 2, a variety of common school services are put in a permissive category – a school may offer these services but must spend first on those things listed in section 1. I would submit that there are items in new section 2 that are absolutely essential to the mission of a public compulsory education system.

I believe that what this bill does is suggest that schools provide opportunities but are not required to ensure student success. As an analogy, I think of the time my youngest son was ill and became dehydrated. As parents we had two courses of action available to us. Under one course we could put glasses of water on his bedside table and suggest he drink – we would give him the opportunity to deal with his dehydration. Under the second course we could take him to the hospital where nurses and physicians would take whatever actions necessary to get liquid into his body.

We chose the second course and in the hospital he was put on an IV drip – much against his will – and forced to recover. Yes we provided him with the opportunity to recover by continuing to provide liquids but we also took action with the help of the medical community to ensure his successful recovery.

Once upon a time perhaps opportunity to learn by providing courses from which a student could glean information and learning was appropriate and the only expectation of schools. But in 2004 such a program is counter to the mission of public education.

Our students are tested and our schools accredited not on the basis of inputs – what courses we offer – but rather on outputs. Schools that do not make progress with all their students jeopardize their

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accreditation from the State Board of Education. The federal government, under the No Child Left Behind Act, requires that by 2014 every one of our students is proficient in reading and math.

The items listed as permissive in new section 2 are those very things that allow us to move all students toward the proficient level. To link suitability to those items in section 1 and require that money be spent there first is to turn our backs on the real mission of public education – to ensure the success of every child. Frankly, we are required to seek the success of every child even if some children don't want to be successful or must overcome tremendous barriers in order to be successful.

We believe that provision of a suitable education does include all of the items in section 1 but that the success of many students is tied directly to the items in section 2. Without nursing services, counselors, quality libraries, alternative schools, and early childhood programs, schools will not be able to meet the challenges of poverty, language, and disabilities that we face today.

Additionally, there are requirements under new section 3 that are closely tied to the permissive items in section 2. I would call your attention to two of them in particular. Without nurses and counselors, how is it that “students are ensured to have the physical and emotional well-being necessary to live, learn and work in a modern society”? (i) Without funding for professional development, how shall we “engage all staff in on-going professional development?” (j)

There is one other concern I would like to share. Section 1 (b) beginning with line 43 on page 1 and continuing through line 5 on page 2 dictates that the State Board of Education select the “teaching material” for all of those curricular areas listed earlier. This implies that Kansas would move toward a state-wide textbook adoption. Having watched the State Board of Education debate textbook adoption in another state, and given the difficulties the Kansas State Board of Education has had with adopting standards for curricular areas, I don't believe this is a good idea. The adoption of materials to meet standards and goals is a decision best left to local school boards and educators.

House Bill 2940 creates a conversation that we ought to have. In my eyes this discussion helps us to refocus on those things that are needed to meet the needs of a diverse population and to rise to the challenges of both state accreditation and federal law. We believe adoption of HB 2940 will hinder schools as they strive to meet those challenges. We urge this committee to reject HB 2940.

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