

MINUTES OF THE SELECT COMMITTEE ON SCHOOL FINANCE

The meeting was called to order by Chairman Kathe Decker at 9:00 on February 8, 2005 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Theresa Kiernan, Revisor of Statutes Office

Art Griggs, Revisor of Statutes Office

Ann Deitcher, Committee Secretary

Representative DeCastro addressed the Committee on the bill proposed by the Education Sub-Committee. (Attachment 1).

Questions and answers followed.

A copy of a Legislative Research report regarding changes in base state aid per pupil and the effect on selected weightings was distributed. (Attachment 2).

Representative Crow read from the Minority Report regarding the Sub-Committee report. She asked that this report be entered as part of the Committee minutes. (Attachment 3).

Representative DeCastro referred to section 3(b) of the bill proposal saying it should be stricken

Representative DeCastro moved that the Committee adopt the sub-committee bill to work Representative Representative Gordon seconded the motion and it passed on a voice vote.

It was moved by Representative DeCastro and seconded by Representative Gordon to strike section 3 of the Sub-Committee report. The motion passed on a voice vote.

A motion was made by Representative O'Neal and seconded by Representative Crow that an ex-officio member be named from the Director of the Division of the Budget. The motion failed on a voice vote.

Representative Larkin moved that they establish an oversight committee consisting of those appointed by respective parties. The motion was seconded by Representative Winn and failed on a voice vote.

Representative Crow moved and Representative Larkin seconded the motion that the duties of this committee be assigned to LAPC. The motion failed on a voice vote.

Representatives Crow, Larkin and Winn wished to be recorded as aye votes.

Representative Gordon made the motion that part 2 under new section 2 be deleted and in section 2 (c) the word "altered" be amended to read "adjusted". Representative DeCastro seconded the motion which passed on a voice vote.

Representative O'Neal moved that in New Section 1 (7) the member be appointed to a 2 year term. The motion was seconded by Representative Merrick and passed on a voice vote.

It was moved by Representative O'Neal that the Sub-Committee report be accepted as amended. Representative Merrick seconded the motion and it passed on a voice vote.

Representatives Crow, Larkin and Winn requested to be recorded as a no vote.

Representative O'Neal requested to be recorded as a yes vote.

The meeting adjourned at 10:30 a.m. The next meeting is scheduled for Wednesday, February 9, 2005.

Proposed Bill No.

By

An Act concerning school districts; establishing the legislative education council; prescribing the powers and duties thereof; amending K.S.A. 46-1001 and.....

Be it.....

New Section 1. (a) There is hereby established the legislative education council. The council shall be composed of nine members of which seven shall be appointed as follows:

- (1) One member appointed by the speaker of the house of representatives;
- (2) one member appointed by the president of the senate;
- (3) one member appointed by the minority leader of the house of representatives;
- (4) one member appointed by the minority leader of the senate;
- (5) the chairperson of the house education committee;
- (6) the chairperson of the senate education committee; and

(7) one member appointed jointly by the speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate and the minority leader of the senate.

The remaining members shall be the legislative post auditor and the attorney general, or their designees, who shall serve as an officio (nonvoting) members of the council.

(b) Except as specifically provided in paragraphs (5) and (6) of subsection (a), nothing in this section shall be construed as requiring the appointment of legislators to the council. Of the members of the council, one member shall be from the professional and business sector who is recognized for leadership and expertise in such person's field and one member shall be a certified public accountant who is recognized for expertise in the area of school district financial operations and who regularly conducts or has regularly conducted audits of school district.

(c) A member appointed by the speaker of the house of representatives shall serve for terms of two years and until a successor is appointed and qualified. A member appointed by the president of the senate and the member appointed pursuant to paragraph (7) of subsection (a) shall serve for terms of four years and until a successor is appointed and qualified. Terms of members of the legislature appointed to the council shall expire at the expiration of the legislative term for which such legislator was elected. Except for vacancies created by the expiration of a term, a vacancy shall be filled for the unexpired term by appointment in the manner prescribed by this section for the original appointment.

(d) Members of the council attending regular or special meetings, subcommittee meetings or meetings of advisory committees authorized by the council, shall be paid amounts for expenses, mileage and subsistence as provided for in K.S.A. 75-3223, and amendments thereto,

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except that members of the council who are legislators shall not receive subsistence under K.S.A. 75-3212, and amendments thereto.

(~~f~~) The members of the council annually shall select a chairperson and vice-chairperson from the membership of the council.

(~~e~~) The council may meet at any time and at any place within the state on the call of the chairperson. A quorum of the council shall be four voting members. All actions of the council shall be by motion adopted by a majority of those voting members present when there is a quorum

(~~d~~) In accordance with K.S.A. 46-1204, aat, the legislative coordinating council may provide for such professional services as may be requested by the council.

(~~c~~) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the council. Upon request of the council, the state board of education and the center for innovative school leadership established pursuant to K.S.A. 2004 Supp. 76-767, and amendments thereto shall provide consultants and assistance when requested by the council. In addition and upon the request of the council, the state board of education and school districts shall provide any information and supporting documentation related thereto.

New Sec. 2. The council shall:

(a) Conduct continuous and on-going monitoring of the implementation and operation of the school district and quality performance act and the quality performance accreditation system;

(b) evaluate the school district and quality performance act and determine if there is a fair and equitable relationship between the costs of the weighted components and assigned weightings;

(c) determine if existing weightings should be ^{adjusted} altered or eliminated;

(d) determine if additional school district operations should be weighted;

(e) review the amount of base state aid per pupil and determine if the amount of state financial aid is sufficient to provide quality educational opportunities for Kansas children. A quality educational opportunity shall be an opportunity to make improvement;

(f) evaluate the reform and restructuring components of the act and assess the impact thereof;

(g) evaluate the system of financial support, reform and restructuring of public education in Kansas and in other states to ensure that the Kansas system is the most efficient and effective;

(h) conduct other studies, as directed by the legislature, relating to the improving, reforming or restructuring of the educational system and the financing thereof;

(i) conduct hearings and receive and consider suggestions from teachers, parents, department of education, the state board of education, other governmental officers and agencies and the general public concerning suggested improvements in the educational system and the financing thereof;

(j) appoint advisory committees when deemed necessary. The chairperson of any such advisory committee shall be a member of the legislative education council; and

(k) make any other recommendation it deems is necessary to guide the legislature to fulfill goals established by the legislature in meeting its constitutional duties of the legislature to:
(A) Provide for intellectual, educational, vocational and scientific improvement in public schools

established and maintained by the state; and (B) make suitable provision for the finance of the educational interests of the state; and

(l) make and submit annual reports to the legislature on the work of the council concerning recommendations of the council relating to the improving, reforming or restructuring of the educational system and the financing thereof and other topics of study directed to the council by the legislative coordinating council. Such report also shall include recommendations for legislative changes and shall be submitted to the legislature on or before December 31 of each year.

Sec. 3. 46-1001. "Investigating committee" defined. As used in this act, unless the context otherwise requires, "investigating committee" means any of the following:

(a) A standing, special or select committee of either the house of representatives or the senate, a joint committee of both houses of the legislature, or an authorized subcommittee of any such committee; or

(b) The legislative coordinating council, the legislative budget committee, the joint committee on special claims against the state, the joint committee on administrative rules and regulations, the legislative post audit committee, the legislative education council, any special or select committee appointed by the legislative coordinating council, or any authorized subcommittee of any such committee or said council; or (c) Any committee, commission or board created by the legislature by concurrent resolution or enactment when, as one or all of its duties, it is to perform an inquiry, study or investigation for the legislature, except that an advisory committee is not an investigating committee; or

(7) Any committee heretofore or hereafter created by law or resolution of either house of the legislature or by concurrent resolution, when all of the members of such committee, who are authorized to vote on actions of the committee, are legislators.

Sec. 4. Repealer

Sec. 5. SB

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February 8, 2005

To: House Select Committee on School Finance

From: Kathie Sparks, Principal Analyst

Re: Changes in Base State Aid Per Pupil and the Effect on Selected Weightings

The following table will outline the changes in funding provided to the following weights with changes only to the Base State Aid Per Pupil. It must be noted, that this table will not provide any information with regard to a composite change, *i.e.*, change in Base State Aid Per Pupil plus changes in the weighting percentages.

<u>Weighting</u>	<u>\$1*</u>	<u>\$5*</u>	<u>\$10*</u>	<u>\$25*</u>
Low Enrollment	\$ 58,077.30	\$ 290,386.50	\$ 580,773.00	\$ 1,451,932.50
Correlation	19,471.70	97,358.50	194,717.00	486,792.50
Vocational	7,711.10	38,555.50	77,111.00	192,777.50
Bilingual	2,590.50	12,952.50	25,905.00	64,762.50
At-Risk	13,506.40	67,532.00	135,064.00	337,660.00
New Facilities	5,490.50	27,452.50	54,905.00	137,262.50

* This is the increase in Base State Aid Per Pupil amount.

41015-(2/8/5(8:13AM))

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Date 2-8-05

Attachment # 2

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TOPEKA

HOUSE OF
REPRESENTATIVES

House Subcommittee to the
Select Committee on School Finance
Concerning an Oversight Committee

Minority Report

The following are points which we respectfully disagree with the subcommittee report:

1. The proposal includes the oversight committee, named the "legislative education council" among "investigating committees." It is unclear why this committee is to be an investigating committee rather than an advisory committee. The statute concerning investigating committees provides that "An investigating committee may meet publicly or in executive session, and exercise powers of compulsory process in either. All or any part of testimony received by an investigating committee may be published or retained secret in accordance with the determination of such committee." K.S.A. 46-1002. This appears to create an oversight committee that can meet in secret and keep its hearings, deliberations, and findings secret from other legislators and the public. "Compulsory process" in regard to any investigating committee is defined in statute as utilizing any one or any combination of the following: "(a) Exercise of the power of subpoena or subpoena duces tecum; (b) Administration of oath or affirmation; (c) Taking of testimony under oath; (d) Referral of any contempt of legislature for prosecution; and (e) Referral of any perjury for prosecution." K.S.A. 46-1003. The oversight committee should not be an investigating committee if the purpose is to allow the committee to work in secret. All activities of the oversight committee should be open to the public.

Rational basis: The task of the oversight committee is to monitor and evaluate the statutory scheme which governs finance of the Kansas public school system. This was cited by the Supreme Court in the Montoy case as a method to maintain the constitutionality of the formula over time once constitutionality is achieved by assessing the impacts of the components of the formula on school districts and evaluating

the amount of funding in the foundation base state aid as well as the weighting factors. The oversight committee is tasked in the proposal, to provide recommendations for legislative changes for improving, reforming or restructuring the educational system and financing thereof.

2. The proposed membership of the committee does not require any representation from the public who are local school board members, teachers, administrators, parents or other interested parties and stakeholders directly involved in the provision for public education at the local school district level. The previous committee had four members from the public, appointed by the Governor and the State Board. The proposal only specifies two members of the public, "one member from the business sector who is recognized for leadership and expertise in such person's field" and one "certified public accountant who is recognized for expertise in the area of school district financial operations," although the proposal does not specify that these members may not be legislators. In fact, the proposal does not require a single member of the public as a member of the oversight committee. The previous oversight committee had 12 Legislators, three-fourths of the committee membership. That committee met for less than a year, made one report, and then ceased activity. It failed in its duty to provide oversight and monitoring of the school finance system. The Kansas Supreme Court has tasked this Legislature with providing for oversight and monitoring, to avoid lawsuits in the future over the Legislature's failure to fulfill its constitutional responsibility to finance schools.

Rational basis: In the 1994 Supreme Court decision on the school finance system in Kansas, Unified School Dist. No. 229 v. State the Court said, "It is generally agreed that the Kansas Constitution limits rather than confers power and any power and authority not limited by the constitution remains with the people and their legislators. An oversight committee tasked with recommending to the Legislature what needs to be addressed in order to protect and maintain the constitutionality of the school finance system should have members knowledgeable about the public schools, the intricacies of the school finance system, and the educational interests of the state.

3. The proposed membership of the committee is clearly partisan. The proposed oversight committee has seven members, two appointed by Republicans, two Republican legislators and two appointed by Democrats. The seventh member must be agreed upon by two leaders of each party. Since the make-up of the committee is likely to be four Republicans and two Democrats, with a seventh wild card member, the committee is likely to be partisan. The previous oversight committee referenced by the Kansas Supreme Court had equal representation from each party among its legislative members.

Rational basis: Such a partisan committee is unlikely to function effectively

to hear all sides concerning issues of school funding. The Supreme Court specifically upheld the district court finding that the financing formula is not based upon actual costs to educate children but is instead based upon former spending levels and political compromise. To create a partisan oversight committee encourages partisan rather than cost based decision making. Since the committee will elect its leadership and its leadership will call meeting and set agenda, it is crucial that the committee be unconstrained by partisan agendas and open to free deliberations about the financing of public schools. A partisan committee controlled by the leadership of the Legislature is likely to simply parrot the political desires of that leadership.

4. The proposed membership of the committee does not include an appointment by the State Board of Education. The previous committee referenced by the Kansas Supreme Court had two appointees from the public who were appointed by the Kansas State Board of Education.

Rational basis: The Kansas Constitution, Art. 6, Section 2 tasks the State Board of Education with certain duties: "the state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state." Since the Constitution requires the Legislature to "make suitable provision for finance" of those educational interests of the state and the State Board has general supervision of such interests, not to include representation or appointment from the Board has no rational basis.

5. The proposed membership of the committee does not include an appointment by the Governor. The previous committee referenced by the Kansas Supreme Court had two appointees from the public who were appointed by the Governor.

Rational basis: The Governor sets the vision for provision for the educational interests of the state of Kansas each legislative session in the State of the State address and makes proposals for the Legislature to consider for suitable financing of those educational interests. The Governor, as chief executive of the state, is responsible for enforcing and carrying out the laws passed by the Legislature, including the school finance law.

6. The duties being assigned to a new committee are similar to duties that have been and are being performed by the Legislative Educational Planning Committee, which is already tasked in statute to "explore, study and make recommendations concerning preschool and K- 12 education in Kansas; review implementation of legislation relating to educational matters; and consider such other matters as the legislative coordinating council may assign." The LEPC

can presently be assigned to do what this “legislative education council” is to do. The LEPC is presently required by law to “annually make a report and recommendations to the legislature and the governor.” The LEPC law also provides that the ‘reports and recommendations of the committee shall include a developmental schedule for implementation of educational goals established by the committee’ . . . updating “such schedule as new or additional information is developed or refined. The Legislature should not create a duplication of an existing committee and call it an oversight committee.

The oversight committee should be more independent from legislative control and as non-political as possible. It should encourage broad-based participation by stakeholders and experts in education and school finance. It should have authority and incentive to thoroughly study and make informed and independent recommendations about school finance to the Legislature. The Legislature and the people of Kansas will not be well served by another layer of legislative study committee. Rather than create another legislative advisory committee on education, it would make more sense to create a truly independent advisory group, with members from the business community and from the front lines of public education and from its patrons, our constituents. Another alternative, not as practicable, would be to delegate the important duty of oversight and monitoring to the LEPC and give the LEPC clear authority to appoint subcommittees as needed with proper representation from the public, just as the Judicial Council does.

Rational basis: There is precedent for assigning the task of oversight and evaluation of the suitable provision for finance of public schools to the LEPC. The Legislature in 2001 passed K.S.A. 46-1225, which tasked the LEPC to “provide for a professional evaluation of school district finance to determine the cost of a suitable education for Kansas children. The evaluation shall include a thorough study of the school district finance and quality performance act with the objective of addressing inadequacies and inequities inherent in the act.” The LEPC was to address the following objectives: (1) A determination of the funding needed to provide a suitable education in typical K-12 schools of various sizes and locations including, but not limited to, per pupil cost; (2) a determination of the additional support needed for special education, at- risk, limited English proficient pupils and pupils impacted by other special circumstances; (3) a determination of funding adjustments necessary to ensure comparable purchasing power for all districts, regardless of size or location; and (4) a determination of an appropriate annual adjustment for inflation. Consideration was to be given to: (1) The cost of providing comparable opportunities in the state's small rural

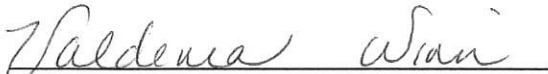
schools as well as the larger, more urban schools, including differences in transportation needs resulting from population sparsity as well as differences in annual operating costs; (2) the cost of providing suitable opportunities in elementary, middle and high schools; (3) the additional costs of providing special programming opportunities, including vocational education programs; (4) the additional cost associated with educating at-risk children and those with limited English proficiency; (5) the additional cost associated with meeting the needs of pupils with disabilities; (6) the cost of opening new facilities; and (7) the geographic variations in costs of personnel, materials, supplies and equipment and other fixed costs so that districts across the state are afforded comparable purchasing power.” These objectives and considerations address the unconstitutional inadequacy and inequity cited by the Kansas Supreme Court in its opinion. If, however, the LEPC is not the proper vehicle for oversight duties, a committee similar to the oversight committee that was created by the 1992 law should be considered.



Marti Crow



Bruce Larkin



Valdenia Winn