

## MINUTES OF THE HOUSE EDUCATION BUDGET COMMITTEE

The meeting was called to order by Chairman Joe McLeland at 1:30 P.M. on February 25, 2008 in Room 514-S of the Capitol.

All members were present.

## Committee staff present:

Audrey Dunkel, Kansas Legislative Research  
Leah Robinson, Kansas Legislative Research  
Matt Todd, Office of Revisor of Statutes  
Dee Heideman, Committee Assistant

## Conferees appearing before the committee:

Madonna Wilson, Citizen's Group  
Diane Gjerstad, Director of Government Relations, Wichita Public Schools  
Tom Krebs, Governmental Relations Specialist, Kansas Association of School Boards  
Bob Vancrum, Kansas Government Affairs Specialist, Blue Valley Schools  
David Hartman, President Classified Senate, Pittsburg State University  
Julene Miller, General Counsel, Kansas Board of Regents  
Krystal Hutfles, County Clerk, Rawlins County

## Others attending:

See attached list.

**HB 2693 - School districts; capital outlay; limitation on frequency of adoption of resolution.**

This bill was briefly explained by Matt Todd.

Hearing on **HB 2693** began with Representative Kiegerl explaining he was a proponent of this bill because any tax increases by school districts would have to be approved by the voters and if the voters voted it down, it could not be resubmitted for one year. This would create some transparency and voters would know where money was being spent. There were no copies of testimony submitted.

Madonna Wilson, speaking in favor of passage of this bill which would correct the unjust laws governing the Capital Outlay Tax. The law would be amended so when a resolution to levy or increase the Capital Outlay Tax is made by the school board, the issue must be voted on by the registered voters in the school district without a petition being necessary. (Attachment #1)

Written testimony was submitted by Richard Mallatt, Jr., who is in favor of this bill because local communities should have a voice in the building and maintenance programs of their school districts. (Attachment #2)

Diane Gjerstad spoke in opposition because capital outlay is critical for districts to keep pace with their facility infrastructure. Requiring districts to have elections will place consistent capital funding source in jeopardy. (Attachment #3)

In opposing this bill, Tom Krebs, stated requiring the patrons to approve any and all outlay requests will restrict a board's ability to be effective stewards of the district's major asset, its physical plant. (Attachment #4)

Bob Vancrum is in opposition to this bill because he feels there are plenty checks and balances under state law right now as to districts levying a capital outlay mill levy. Each district is controlled by a school board that serves at the pleasure of the same voting electorate and taxpayers that elect state representatives. (Attachment #5)

Gary George supplied written testimony in opposition because he does not believe there is a need for this law. (Attachment #6)

CONTINUATION SHEET

MINUTES OF THE House Education Budget Committee at 1:30 P.M. on February 25, 2008 in Room 514-S of the Capitol.

Opposing written testimony submitted by Eric Stafford was passed out stating that the Associated General Contractors of Kansas feels this could have far reaching effects for the buildings in school districts, potentially resulting in a backlog of maintenance projects across the state that could compare to the deferred maintenance facing the Board of Regents. (Attachment #7)

The Chair closed the hearing on **HB 2693**

**HB 2611 - Conversion of certain employees of state educational institutions to unclassified service; leave time for classified employees of state educational institutions.**

Matt Todd reported this bill concerned conversion of classified employees of state educational institutions to the same leave time as unclassified employees.

David Hartman testified on behalf of the classified employees of Pittsburg State University stating they want to receive vacation time equal to that of the unclassified staff. He felt that it would aid in hiring and maintaining employees. Since they would not be hiring temporary staff when an employee is on vacation, this bill would have no fiscal impact. (Attachment #8)

Next, Julene Miller, a proponent of **HB 2611**, said this legislation would authorize the Board to allow state universities to place University Support Staff on the same footing as classified employees at the universities in terms of increased leave benefits. (Attachment #9)

The hearing on **HB 2611** were closed by the Chairman.

**HB 2858 - Fort Hays state university foundation, authorized investing agent**

The purpose of this bill was merely a name change according to Matt Todd of the Revisor's Office.

The Chair asked for conferees on this bill, and since no one came forth, he closed the hearing.

**HB 2909 - Recreation commissions; consolidated school district; tax levy.**

A short synopsis of this bill was given by Matt Todd.

Krystal Hutfles speaking for Rawlins County is in favor of including the recreation system in school consolidation. (Attachment #10)

Chairman McLeland then closed the hearing on this bill.

The meeting was adjourned by the Chair at 3:05 PM.

The next meeting will be held on March 5, 2008 in Room 514-S at 1:30 PM.



Re: HB 2693

To: Chairman Mcleland and Committee Members:

We are submitting to you today, the following description of our dilemma with the **Capital Outlay Tax** procedure used by our public school. We will greatly appreciate your efforts to strive for the correction of the very unjust laws governing the Capital Outlay Tax.

Our school board, or any public school board in the State of Kansas, can at any time they desire, sit comfortably in their chairs at a school board meeting and by use of words alone, ie. "Let's raise their taxes", pass a resolution to increase our taxes under the auspice of "**Capital Outlay**".

All that is required of the school board to finish the process and put this **Capital Outlay** tax into effect is to publish a legal notice, explaining their intent to raise taxes, in a locally circulated paper twice (two consecutive weeks). If the taxpayers (actually, registered voters) do not submit a legal petition objecting to the tax increase within 40 days of the second publication of the legal notice, then the school board has successfully raised our taxes the amount of mills they determined and **it is effective for 5 years!!!**

If we, as taxpayers (registered voters), decide to protest this tax increase, we must go door to door collecting the signatures of at least 10% of the registered voters in the school district. (Notice this cannot be done while sitting in a comfy chair). We have 40 days to get this accomplished. But, immediately many of those days are lost because this petition must be approved by the Johnson County attorney's office and the District attorney's office, not at all an easy task. The legal department uses up at least 5 days of the constituents legally allotted 40 days to go out and collect signatures of 10% of the registered voters. If the County Legal Department does not give an affirmative opinion the first time (they rarely do) then the petition must be re-written and re-submitted to the County Legal Department a second time. This process can continue until the Legal Department decides they can give an affirmative opinion. We have had to re-submit our petitions because of mistakes the school made when they submitted their original legal notice to the newspaper, among other piddly reasons. During all this procedure, the County is using up your legally granted 40 days. You can understand, I am sure, from your campaigns, the footwork, gasoline, time and money that must go into this effort. You don't just go to someone's door and hand them literature, you must visit with them and explain your position etc. And, while we are out beating the streets, you can imagine what the school is doing-- they are spending our tax dollars on propaganda to support this tax increase. The school board is elected to represent all the taxpayers, not just the ones who agree with their opinion. In a government of the people, by the people, for the people, the school should make the proposal and then remain neutral on the issue. The school board should not allow funds to be used by the proponents unless they will be providing an equal amount of funds to be used by the opposition.

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When the petition is completed with the required number of signatures, it is submitted to the election office, the personnel there must verify every signature to determine if it is a legal petition. If it is determined to be legal, the school is notified and then a date is set **by the school**, to put the issue on a ballot.

If the voters (taxpayers) defeat this tax increase with a resounding "NO", their "NO" is good for **only 90 days!!!!** After 90 days the school board can start the process all over again! Compare that to the **5 YEARS** the tax would be levied if it had passed!

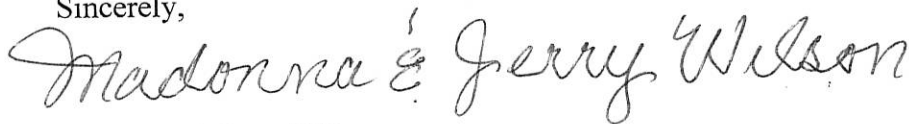
In order to get the voice that our government provides for us, we have had to carry this petition **three times within a year and a half!!!** This is not justice. These laws governing this procedure are definitely favoring the school and **abusing the taxpayers** who fund the schools.

Our request of you, the Legislators of the State of Kansas, is to amend the laws governing the Capital Outlay Tax so that from this point forward, when a resolution to levy the Capital Outlay Tax or increase an existing Capital Outlay Tax is made by a school board, the issue must always be voted on by the registered voters in the school district without a petition being necessary. And, if the tax levy is defeated in that vote of the people, the school board cannot make a new resolution to levy that tax for 1 year (1 year must pass from the date of the defeating vote before they can make a new resolution to levy a new Capital Outlay Tax or increase an existing one).

It is our belief that School Board Members are obligated first and foremost to represent those who elected them and who pay the bills. The school district has a tremendous advocate in the Superintendent of the district. Board members, on the other hand, are to represent us-the owners of the school, the employers, and the bill payers for the district.

We do so appreciate your willingness to serve the people and your time and attention today. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Madonna & Jerry Wilson". The signature is written in dark ink and is positioned above the printed name.

Madonna & Jerry Wilson

**HOUSE EDUCATION BUDGET COMMITTEE**

**Re: HB 2693**

**February 25, 2008**

**Mr. Chairman and Members of the Committee:**

**Thank you for allowing me to express my opinion regarding HB 2693. My name is Richard Mallatt, Jr., a mere constituent. I am a proponent of this Bill.**

**I believe the real issue of this Bill is whether local communities should have a voice in the building and maintenance programs of their school districts.**

**I hope you will recommend HB 2693.**

**Thank you,**

**Richard Mallatt, Jr.  
6336 SE 60<sup>th</sup> Street  
Riverton, KS 66770  
620-848-3846**

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**House Education Budget Committee  
Representative McLeland, chair**

**H. B. 2693 Capital Outlay Resolutions**

*Submitted by: Diane Gjerstad  
Wichita Public Schools*

February 25, 2008

Mr. Chairman and members of the Committee:

I rise in opposition to H.B. 2693 requiring new resolutions for capital outlay to be submitted for voter approval. Capital outlay is critical for districts to keep pace with their facility infrastructure. Requiring districts to have elections will place consistent capital funding source in jeopardy.

Capital funding is not a luxury – it is a needed and essential investment in the community’s assets. Capital planning is not short-term – districts usually have at least five-year capital plans. Without a consistent source of funding, a methodical and ultimately the most cost-effective plan would not be possible. Gaps in capital funding could increase cost (by delaying timely replacements) and in a worse case scenarios place children in unhealthy or classroom settings where learning is difficult.

Capital expenditures will occur with or without a capital mill levy. If no capital funding is present, then school boards will be forced to fund these expenses out of the General Fund. Funding capital out of the General Fund forces capital projects to compete with the instructional needs of the students -- an untenable position for any Board of Education. The base budget per pupil (which fuels the General Fund) was not created with the anticipation that it would also cover capital expenditures. So, if we are going to push capital expenditures into the district’s General Fund then we will need to recalibrate the base per pupil to a much higher level.

In conclusion I would remind the Committee that School Boards are subject to election just as legislators. If there are concerns with spending the local patrons have the opportunity to voice their feelings at the ballot box every two years.

Mr. Chairman, the words “capital outlay” are really quite sterile. A more visual term would be “where our children learn”. The dollars from capital are the investment we make in where our children learn. I would urge the Committee to reject H.B. 2693.

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KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

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

Testimony before the  
**House Education Budget Committee**  
on  
**HB 2693 – Capital Outlay**

by

**Tom Krebs, Governmental Relations Specialist**  
Kansas Association of School Boards

**February 25, 2008**

Mr. Chair and Members of the Committee:

Thank you for the opportunity to comment on **HB 2693**. KASB is opposed to any changes in statute that would minimize current school board authority to levy a tax for capital outlay purposes. As it currently stands, the board, after approving a capital outlay levy, is required to share its decision with its constituents through publication mandates. Only if a protest petition is filed, which rarely happens, is an election held. Requiring the patrons to approve any and all outlay requests will restrict a board's ability to be effective stewards of the district's major asset, its physical plant. Having the ability to build up a capital outlay fund gives the district the resources for both short- and long-term needs.

The suggested restriction as to how often an election could be held would only make matters worse, but obviously would not be a burden, given this statute's original premise is flawed, and would hinder, not help, taxpayers stretch the money they invest in schools.

Thank you for your consideration.

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TESTIMONY TO HOUSE EDUCATION BUDGET COMMITTEE  
Concerning HB 2693 on behalf of Blue Valley School District  
By Robert J.Vancrum, Kansas Government Affairs Specialist  
February 25, 2008  
[rvancrum@stinson.com](mailto:rvancrum@stinson.com); 913-634-8257

Honorable State Representatives:

I'm here to express our District's strong opposition to HB 2693. This bill would require a vote of the electorate for the adoption OR renewal of a capital outlay mill levy. By way of background let me explain that the capital outlay levy is currently capped at 8 mills and a number of districts are capped by state law at that level, but nevertheless are required to renew and recertify the levy as necessary by board resolution every 5 years. The adoption or renewal resolution is subject to a protest petition, which means if there is significant opposition to the levy, such issue must be submitted to a vote of the electorate. Thus we feel there plenty of checks and balances under state law right now as to districts levying a capital outlay mill levy that is not needed or is not supported by voters and taxpayers in the district.

There has been a tendency in recent years to forget that the district is controlled by a school board that serves at the pleasure of the same voting electorate and taxpayers that elect state representatives from such area. More importantly, they are certainly more in tune with the needs of pupils and taxpayers in such district than a state legislature in Topeka. We did not understand why the capital outlay levy had to be capped at 8 mills, but we agree that other districts are much more restricted by that cap than ours, and therefore agreed that some cap was needed. But to require a vote to adopt or renew such a levy is an unneeded intrusion on the district's right to make its own budget decisions.

Two years ago the legislature also required a vote of the electorate any time a local option budget is adopted. We felt this was an unwise move and last year advocated for a return to the protest petition requirement. With a present general fund budget of slightly over \$100 million, if the increase to 32% LOB( that was adopted in last year's budget but not implemented due to concerns about its constitutionality) had been adopted, our district would have had to spend a high percentage of the new \$1 million additional LOB amount just to hold a special election in a year in which there was no election. The same would be true for some districts just in trying to renew their capital outlay levy.

This seems particularly pointless to our district, which hasn't had a successful protest petition at any time, and has never had a mill levy vote defeated. We really don't fear such a vote therefore- we know what our voters would say. They not only trust their board to make the right financial decisions. For the most part, they can't understand why state law doesn't allow them to spend more to secure the continuation of an excellent district. Please don't put up further obstacles to our continued success.

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**Olathe School District  
Testimony provided by Gary George  
House Bill 2693  
February 25, 2008**

We are submitting written testimony in opposition to House Bill 2693; a bill that would require an election to have a capital outlay levy.

- ◆ We do not believe there is need for this law. The current law allows a protest petition. Currently, if 10 percent of qualified voters in the school district sign such a petition then an election must be held.
- ◆ The Olathe School District and most districts in the state have such levies and there has not been a need for an election because no or fewer than 10 percent of the people sign such a petition.
- ◆ We believe this bill has grown out of a unique local situation that should be addressed and resolved at the local level. State policy should not be changed due to one local issue that can be solved locally.
- ◆ This bill has the potential to saddle districts with huge election costs when there is virtually no opposition to a capital outlay resolution. For the vast majority of districts, this would be a needless and wasteful use of taxpayers' funds that should be more appropriately spent on students.
- ◆ Capital outlay funds are used for major building repairs, replacing furniture, purchasing computers, etc. We believe it is not good public policy to force all school districts to incur the cost of elections because the citizens in one community cannot find common ground.
- ◆ Finally, the Olathe Board of Education has adopted a legislative position supporting local control and believes the board must have the authority to manage public education within its district.

We strongly believe this bill should go no further.

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*Building a Better Kansas Since 1934*  
200 SW 33<sup>rd</sup> St. Topeka, KS 66611 785-266-4015

**TESTIMONY OF  
ASSOCIATED GENERAL CONTRACTORS OF KANSAS  
BEFORE HOUSE EDUCATION BUDGET COMMITTEE  
HB 2693**

February 25, 2008

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am Associate Government Affairs Director for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

**AGC of Kansas opposes House Bill 2693 and respectfully asks that you reject this bill.**

HB 2693 would require any capital outlay project to receive a majority vote by those in a school district before it can be approved. AGC feels this could have far reaching effects for the buildings in school districts, potentially resulting in a backlog of maintenance projects for districts across the state that could compare to the deferred maintenance crisis facing the Board of Regents.

If a district is forced to delay building and maintenance projects deemed appropriate by elected school officials because of the voting requirement, the cumulative effect due to the delays will likely result in a backlog of construction projects and maintenance issues that a district would struggle to get out from under. Addressing the neglected buildings and making up the inevitable backlog would then require an overwhelming investment by local taxpayers and the state.

The AGC of Kansas **respectfully requests that you reject HB 2693**. Thank you for your consideration.

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Feb. 25<sup>th</sup> 2008

Testimony on House Bill 2611

Presenter: David Hartman

Classified Senate President

Pittsburg State University

Physical Plant Electric Shop

I am here today to testify on behalf of the classified employees from Pittsburg State University in the matters of House Bill 2611 of the State of Kansas. As classified employees of the Regents Universities, we want to receive vacation time equal to that of the unclassified staff.

The reasoning behind this is that:

1: The Regents schools typically have a time of close down during the Christmas Holiday week and sometimes until New Year's Day

2. On our campus the heat is turned off during that time for conservation of energy and conditions are often not conducive to work and most departments close down.

3. For a new employee hired in the classified ranks it takes about 4-5 months to earn enough vacation time to cover this closure (providing no emergencies have come up) and they may not have had adequate time to prepare.

A classified employee receives one vacation day per month. The unclassified employee receives what amounts to 1.83 vacation days per month. Situations can occur in which the classified employee does not have enough time for the holiday closing, where as, the unclassified employee can save enough time in two to three months of accumulation.

In a time when the Regent schools are concerned with the ability to get new hires and to keep them, benefits are often the only answer. Vacation time can make any job look much better.

The Regents universities have classified and unclassified employees working side by side often doing the same job. Equalizing the vacation benefits of the classified employee and the unclassified employee will increase morale and help to answer Rodney Dangerfield's age-old question, "Can I get a little respect?" –Dangerfield

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According to the Director of the Budget, Duane Goosen, "House Bill 2611 would not have a fiscal effect". In layman's terms, it costs the state no more or less to give this benefit to the classified employees. – Goosen

As classified employees we have a job to do and we do it, with pride. Pride in who we are and what we do. We have been given a chance to make a difference for the next generation. In doing our job, we want to receive compensation that we feel is fair. There is no reason classified employees shouldn't receive the same vacation time from day one on the job that the unclassified receive.

As one of the two employees who brought this situation to Representative Julie Menghini two years ago, I can tell you it was not the intention to hand out another longevity perk to the employees with over ten years. For the most part, those employees have their vacation and sick time under control. Assigning new amounts but keeping the leave accrual in a tiered format negates our original intention. Our intention was for all classified employees to receive the maximum amount of vacation from day one just as the unclassified employees receive it. This will help recruit and retain employees. In July of 2006 a survey was taken at Pittsburg State University among classified employees to find whether a tiered vacation system was desired or an equal system was desired. The results of that survey show 71% in favor of an equal vacation system. (see attached)

The Regents Universities have many dedicated employees that are here to help touch the lives of the thousands of students that attend the university. Granting the same vacation benefits to all employees would be a wonderful morale booster and would be greatly appreciated by all of the classified personnel. The administration at Pittsburg State University supports the classified system as much as they are able. The situation is that their hands are often tied and they can't do for us what they would like. Your hands are not tied. Please pass House Bill 2611 with the endorsement of classified employee vacation time equal to that of unclassified employees, to be received starting on day one rather than in a tiered system. Thank you for your attention today.

Duane Goosen letter to the Honorable Joe McLeland dated 23 January 2008 - see attached

January 23, 2008

The Honorable Joe McLeland, Chairperson  
House Committee on Education Budget  
Statehouse, Room 503-N  
Topeka, Kansas 66612

Dear Representative McLeland:

SUBJECT: Fiscal Note for HB 2611 by Legislative Educational Planning Committee

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2611 is respectfully submitted to your committee.

HB 2611 provides clarifying language on vacation leave policies at state universities. Definitions are provided and it is clarified that the language applies to state universities, including the University of Kansas Medical Center. In addition, the State Board of Regents would be authorized to enhance vacation leave for classified employees or university support staff; however, the amount of time given could not exceed the amount of vacation leave given to unclassified employees at the university.

HB 2611 would not have a fiscal effect unless temporary employees were hired to replace vacationing staff. The universities indicate that temporary staff would not be used

Sincerely,



Duane A. Goossen  
Director of the Budget

cc: Kelly Oliver, Board of Regents

July 2006

Vacation Survey for Pittsburg State University Classified Employees

Total Surveys sent:	322 (number of classified employees)
Response:	164 Total 51% return
Proposal #1, tiered	46 29%
Proposal #2, same as unclassified	<b><u>116 71%</u></b>
No vote	2



# KANSAS BOARD OF REGENTS

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**House Education Budget Committee  
February 25, 2008**

***Testimony In Support Of House Bill 2611***

**Julene Miller, General Counsel**

Chairman McLeland and members of the Committee, thank you for the opportunity to testify on behalf of the Board of Regents in support of House Bill 2611, legislation that would authorize the Board to allow state universities to place University Support Staff (USS) on the same footing as classified employees at the universities in terms of increased annual leave benefits.

In 2005, the Legislature enacted K.S.A. 76-715a, authorizing the Board of Regents to allow any state university to convert its classified staff to USS, subject to an affirmative vote of the classified staff at that university. Conversion pursuant to this statute removes USS from the State classified system in terms of job classifications, salary levels and salary increases; however, the statute provides that benefits for USS, including annual leave benefits, shall remain the same as those provided under the State classified employee system.

In 2006, K.S.A. 76-715b was enacted, authorizing the Board to allow state universities to raise annual leave for their classified staff up to the level offered to their unclassified personnel, thus increasing such benefits above what is provided under the State classified employee system. This statute does not contain any authority to similarly allow increased annual leave for USS.

House Bill 2611 would simply bring these two statutes together and clarify that USS can be afforded the same increased annual leave benefits that the Board currently has the power to authorize for state university classified employees.

The Board is currently working on a policy amendment to provide classified employees at the state universities with enhanced annual leave accruals. We do not believe we have authority, without this bill, to include USS in that policy amendment. If the Board's policy is adopted and this bill does not pass, existing USS at the University of Kansas will be the only non-faculty employees at any of the state universities not eligible to receive enhanced leave. Further, once annual leave for university classified staff is enhanced, if another university later pursues USS conversion, it would arguably be required to reduce annual leave for the new USS back to those levels established in the State classified system. There are currently at least two universities, Fort Hays State University and Kansas State University, considering a conversion to USS and this leave issue may be a factor in that decision.

Thank you for your consideration of House Bill 2611. I would be happy to address any questions that you might have.

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Testimony in Support of House Bill 2909

Provided by Krystal Hutfles, Rawlins County Clerk

Mr. Chairman and Honorable Members of the Education Budget Committee:

Thank you for this opportunity to testify today in support of House Bill 2909.

I would like to provide you with a brief history of our school consolidation and of the impact House Bill 2909 would have on Rawlins County.

In April 2003, Rawlins County residents voted to consolidate two school districts, U.S.D. 317, Herndon and U.S.D. 318 Atwood into one district now called U.S.D. 105 Rawlins County. After the consolidation, the County Clerks office proceeded to update the school mill levy for all residents. It was discovered in June, 2003, that the mill levy for the Atwood Recreation Program was not included in the vote by the residents of the previous U.S.D. 317. There was a special election held on July, 8 2003 for the residents of U.S.D. 317 to extend the taxing district boundaries to include the mill levy for the now U.S.D. 105 Recreation Commission Mill Levy. That request was denied by a vote of 16 to 60. After that election, the County Clerks office had to reinstate the original tax districts to exclude the Recreation Commission Mill Levy from the previous U.S.D. 317 residents, and the County Treasurers office had to continue to make separate school and recreation commission tax distributions as if a school consolidation had not been made.

If House Bill 2909 had been in effect at the time of the Rawlins County school consolidation, the additional tax dollars that would have been generated since our consolidation for the Recreation Commission would have been approximately \$67,000. We would have been able to reduce our taxing districts from twenty-eight to twenty-one and reduce the amount of time spent on valuations, creating county tax levy schedules, tax distributions and C.A.M.A. assessments.

Please count Rawlins County and myself as a proponent for including the recreation system in school consolidation.

Thank you.

  
Krystal Hutfles  
Rawlins County Clerk

House Education Budget Committee

Date: 02-25-08

Attachment #: 10