

MINUTES OF THE HOUSE EDUCATION BUDGET COMMITTEE

The meeting was called to order by Chairman Joe McLeland at 4:15 p.m. on March 16, 2010, in Room 546-S of the Capitol.

All members were present except:

Representative Brenda Landwehr- excused

Committee staff present:

Theresa Kiernan, Office of the Revisor of Statutes

J G Scott, Legislative Research Department

Leah Robinson, Legislative Research Department

Sharon Wenger, Legislative Research Department

Dee Heideman, Committee Assistant

Conferees appearing before the Committee:

Representative Clay Aurand, Kansas State Representative, District 109

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

Others attending:

See attached list.

**HB 2718 - School finance litigation; duties of the revisor of statutes**

Theresa Kiernan, Office of the Revisor of Statutes, gave an explanation of this bill.

There were no proponents or opponents to **HB 2718**.

The chair close the hearing on the bill.

**HB 2739 - School districts; mandatory local levy; state financial aid; BSAPP**

Theresa Kiernan stated the requirements of **HB 2739**. (Attachment 1)

Representative Clay Aurand, Kansas State Representative, District 109, a proponent of **HB 2739**, explained this bill with a graph, "Comparison of **HB 2739** With Current School Finance Formula." (Attachment 2) Representative Aurand explained that under the bill, the current local option budget authority (LOB) of school districts would be reduced by an amount equal to 10%. School districts would be required to levy a property tax equal to 10% of the current LOB authority; the levy would be equalized in the same manner as the current LOB levy. Other provisions in the school finance laws are amended to conform to this policy change. Moneys derived from the local foundation levy and local foundation state aid would be deemed to be state moneys for educational and support services for school districts. State financial aid would be redefined to mean an amount equal to ninety (90) percent of the product obtained by multiplying the Base State Aid Per Pupil (BSAPP) by the enrollment of a district. The statutory amount of the BSAPP would be \$4450; ninety (90) percent of that amount would be \$4005. The bill would require each school district to impose a local tax levy to finance a district's local foundation budget. Moneys derived from the levy and state aid would be deposited in a district's general fund.

The only opponent, Mark Tallman, Assistant Executive Director, Kansas Association of School Boards, said the way his organization understands this bill, it would essentially make a portion of the current local option budget mandatory, and the state would attempt to count these funds as part of the statutory base budget per pupil. KASB opposes this measure on the simple basis that if the legislature wishes to make a portion of school finance mandatory, it would provide equalization for the mandatory portion of the LOB at the same rate as the current LOB. (Attachment 3)

**HB 2446 - State educational institutions; gifts and donations; investments**

This bill was re-referred back to the House Education Budget Committee because of concerns over what property would be affected, and to define the meaning of "property" as listed in this bill.

CONTINUATION SHEET

Minutes of the House Education Budget Committee at 3:30 p.m. on March 16, 2010, in Room 159-S of the Capitol.

Theresa Kiernan, Office of the Revisor of Statutes, passed out an amended copy of **HB 2446**. She noted the changes in the bill, and the meaning of "property." She stated, property means any tangible, intangible or other personal property. It does not mean real property. No action was taken on this bill. (Attachment 4)

The next meeting is scheduled for March 17, 2010.

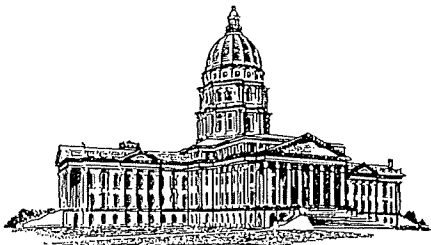
The meeting was adjourned at 05:15 p.m.

EDUCATION BUDGET COMMITTEE GUEST LIST

DATE: 3-16-2010

NAME	REPRESENTING
David E. Clark, Jr.	United Teachers of Wichita
Randy Mousley	United Teachers of Wichita
Scott Frank	Legislative Post Audit
Teeay Leatherman	Communities To Schools of Ks
Barbara Hollingsworth	Capital-Journal
Levi Henry	Sandstone Group LLC
Jeff Aron	Division of the Budget
Bill Brady	SFFF
Diane Gjerstad	USD 257
Bill Reardon	USD 500 (K.C.)
Mark Tallman	IASIS
Mike Reeser	KIZ Inc
April Holman	Kansas Action for Children
Mark Disetti	KNEA
Stuart Little	The Shawnee Mission #512
Cheryl Semmel	USA 1/Kansas
TERRY FORSYTH	KNEA
Tracy Russell	SQE
Enid	KSDE
Dale Dennis	KSDE
Jennifer Crow	USD 501
Leigh Keck	HLF

MARY ANN TORRENCE, ATTORNEY  
REVISOR OF STATUTES  
JAMES A. WILSON III, ATTORNEY  
FIRST ASSISTANT REVISOR  
GORDON L. SELF, ATTORNEY  
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES  
KANSAS LEGISLATURE

Legal Consultation—  
Legislative Committees and Legislators  
Legislative Bill Drafting  
Legislative Committee Staff  
Secretary—  
Legislative Coordinating Council  
Kansas Commission on  
Interstate Cooperation  
Kansas Statutes Annotated  
Editing and Publication  
Legislative Information System

TO: House Education Budget Committee  
FROM: Theresa Kiernan  
RE: House Bill No. 2739  
DATE: March 16, 2010

House Bill 2739 would require each school district to impose a local tax levy to finance the school district's foundation obligation (or the local foundation budget). The amount of money generated by the levy must be equal to 10% of the product obtained by multiplying the BSAPP by the adjusted enrollment of the district. The levy would be equalized to the 81.2 percentile in the same manner as LOB levies are equalized. Moneys derived from the levy and state aid are deposited in the general fund of the district. The levies are required to be imposed in the same years in which the state-wide twenty-mill levy is imposed.

State financial aid would be redefined to mean an amount equal to 90% of the product obtained by multiplying the BSAPP by the enrollment of a district. Under current law, state financial aid is 100% of the amount obtained by multiplying the BSAPP by the enrollment of a district.

The state-level foundation obligation would be funded by the twenty-mill levy. The state-level foundation obligation is that portion of a district's general fund budget which is not financed from any other source provided by law. Under the bill, 10% of the general fund of a district would be financed through the district's foundation obligation.

The maximum local option budget that may be adopted would be 18% of the foundation funding of the district. Foundation funding is the sum obtained by adding the state-level foundation obligation and the school district foundation obligation. Under current law the maximum local option budget that may be adopted is 31% of the state financial aid of the district. An LOB of 18% of the foundation funding of the district would equal an LOB of 31% of the state financial aid of the district.

By requiring school districts to impose a levy to finance the school district's foundation obligation, it is the sponsor's intent that the money attributable to the school district's foundation obligation would be included in the calculation of total moneys expended in support of schools. In the cost studies conducted by Augenblick and Myer and by Legislative Post Audit amounts of money derived from levies imposed to fund the local option budgets were not included as moneys expended in support of public schools because the levies were not mandatory.

RS- C:\Documents and Settings\tkiernan.RS\Desktop\Explnrs\HB2739Expr.wpd (tkiernan)

300 SW TENTH AVE - STE 24-E, Statehouse—TOPEKA, KANSAS 6  
PHONE (785) 296-2321 FAX (785) 296-6668 E-mail: Revisor'sC

House Education Budget Committee  
Date: 03-16-2010  
Attachment #: 1

## Comparison of HB 2739 With Current School Finance Formula

1% Election	1% Election	
Local Option Budget 30%	Local Option Budget 17%	
General Fund + LOB = \$5,255.64	LFB + SLFA = \$5,255.64	
	Local Foundation Budget (LFB) 10% of Base	
General Fund  \$4,042.80	State Level Foundation Aid (SLFA)  90% of Base  \$4,042.80	\$4,492
Base State Aid Per Pupil	Base State Aid Per Pupil	



KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024  
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Testimony before the  
**House Education Budget Committee**  
on  
**HB 2739**

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

**March 16, 2010**

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to comment on **HB 2739**. As we understand it, this bill would essentially make a portion of the current local option budget mandatory, and the state would attempt to count these funds as part of the statutory base budget per pupil.

KASB would oppose this measure on the simple basis that if Legislature wishes to make a portion of school finance mandatory, it should be funded by the statewide mill levy or other statewide taxes. We do support having a minimum local effort by each district. If we understand the bill correctly, it would provide equalization for the mandatory portion of the LOB at the same rate as the currently LOB. But even under the current formula, there are disparities in the mill levy required to raise a given percentage of local option budget.

We can think of no rational reason to require taxpayers in different school districts to pay different rates of tax, to fund what the state believes to a suitable level of education. We question how this can be defended in terms of either student or taxpayer equity. Finally, we would note this disparity would tend to impose a heavier burden on districts with less property wealth, which may also be districts with more disadvantaged and educationally at-risk students.

For these reasons, we do not believe **HB 2739** to be good public policy. Thank you for your consideration.

House Education Budget Committee

Date: 03-16-2010

Attachment #: 3

As Amended by House Committee

Session of 2010

HOUSE BILL No. 2446

By Legislative Educational Planning Committee

1-14

10 AN ACT concerning certain postsecondary educational institutions; re-  
11 lating to investments and gifts; amending K.S.A. 76-308, 76-410a, 76-  
12 604 and 76-718a and repealing the existing sections; also repealing  
13 K.S.A. 76-347, 76-349, 76-360 and 76-362.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. (a) As used in this section:

17 (1) ~~“Property” means any tangible, intangible, real or personal~~  
18 ~~property.~~

(A) "Property" means any tangible, intangible or other personal property.

19 (2) “University” means (A) The university of Kansas, Kansas state  
20 university, Wichita state university, Fort Hays state university, Emporia  
21 state university and Pittsburg state university; and (B) all campuses and  
22 academic and administrative units, schools, colleges, departments or  
23 other unincorporated subdivisions of a university.

(B) "Property" does not mean real property.

24 (3) “Foundation” or “university foundation” means the official foun-  
25 dation of a university.

26 (4) “Foundation subsidiary” means a third party entity wholly-owned  
27 by the foundation or a non-member, non-stock not-for-profit entity  
28 wholly controlled by the foundation.

29 (5) “Chief executive officer” means the president or chancellor of a  
30 university or a person designated by the chief executive officer.

31 (6) “Gift” ~~includes~~ any gift, donation, bequest, ~~devise~~ or endowment  
32 of property.

means

33 (7) “Donor” means any person who makes a gift.

34 (8) “Approval” means the acceptance of a gift by the chief executive  
35 officer of a university and includes any conditions established by the chief  
36 executive officer in such approval.

37 (9) “State law” means any state statute or rule and regulation adopted  
38 pursuant thereto.

39 (b) (1) Except as provided by this section, each gift made to a uni-  
40 versity, upon written approval of the chief executive officer, shall be  
41 deemed to be a gift to the university’s foundation.

42 (2) The provisions of this section shall not apply to any gift that has  
43 been or is made to a university if the donor made the gift upon the express

1 written condition that such gift not be transferred to the university's found-  
2 dation or foundation subsidiary.

3 (c) All university funds and all student scholarship or loan funds held  
4 or managed for a university by the university's foundation, pursuant to  
5 state law in effect immediately prior to the effective date of this act and  
6 upon written approval of the chief executive officer of the university, shall  
7 be deemed to be the property of such foundation.

8 (d) A gift which otherwise would vest in a foundation under subsec-  
9 tion (b) shall not so vest until the earlier of:

10 (1) The date on which the foundation provides written notice of ac-  
11 ceptance of such gift to the chief executive officer. Such notice shall  
12 include acceptance of any conditions established in the approval of the  
13 gift by the chief executive officer; or

14 (2) thirty days following the date on which the chief executive officer  
15 provides written notice to the foundation of such gift including any con-  
16 ditions established in the approval thereof by the chief executive officer  
17 and the failure of such foundation within such thirty-day period to provide  
18 such chief executive officer written notice that such foundation either  
19 disclaims or is assigning to a foundation subsidiary the gift that was de-  
20 scribed in the chief executive officer's notice that otherwise would be-  
21 come property of such foundation pursuant to subsection (b). If written  
22 notice of such disclaimer or assignment is provided to the chief executive  
23 officer within such thirty-day period, such property disclaimed or assigned  
24 shall be deemed never to have belonged to the foundation. Any portion  
25 of a gift which is assigned shall be deemed to be the property of the  
26 foundation subsidiary subject to any conditions established in the approval  
27 thereof by the chief executive officer of such university.

28 (e) Any property which is or becomes the property of a foundation  
29 or a foundation subsidiary, pursuant to this section or otherwise, shall not  
30 be deemed to be public or state property or moneys under K.S.A. 45-  
31 240, and amendments thereto, or other state law. ~~Any real property which~~  
32 ~~is or becomes property of a foundation or a foundation subsidiary shall~~  
33 ~~be exempt from the requirements relating to the disposition of surplus~~  
34 ~~real property applicable to real property owned by the state or any agency~~  
35 ~~or instrumentality of the state.~~

36 (f) Any property which becomes the property of a foundation or a  
37 foundation subsidiary pursuant to this section shall be received, held,  
38 administered, invested, reinvested and expended solely for the benefit of  
39 such foundation's university, including faculty or staff of the university,  
40 subject to any lawful restrictions created by any agreement or other in-  
41 strument which governs such gift or student scholarship or loan fund,  
42 whether by the donor thereof or in the approval thereof by the chief  
43 executive officer of the university. Unless lawful restrictions on the use

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1 of the property provide otherwise, any such property may be commingled  
2 with other property of such foundation or foundation subsidiary. The  
3 foundation or foundation subsidiary may charge and deduct a reasonable  
4 administrative fee for services provided in fulfilling its obligations under  
5 this subsection and may be reimbursed for its actual expenses incurred  
6 in performing such services, from the ~~rents~~, profits, income or principal  
7 of such property.

8 (g) A foundation or foundation subsidiary shall not have the power  
9 to commit its university to expend any public funds or state moneys.

10 (h) The Kansas university endowment association shall be the official  
11 foundation for the university of Kansas. The Kansas state university foun-  
12 dation shall be the official foundation for Kansas state university. The  
13 Wichita state university foundation shall be the official foundation for  
14 Wichita state university. The Fort Hays state university ~~endowment~~ foun-  
15 dation shall be the official foundation for Fort Hays state university. The  
16 Emporia state university foundation, inc., shall be the official foundation  
17 for Emporia state university. The Pittsburg state university foundation,  
18 inc., shall be the official foundation for Pittsburg state university.

19 (i) The provisions of subsections (b) and (c) shall not apply to:

20 (1) Any fees, tuition or other charges collected by a university.

21 (2) Any gift or transfer made to a university by the university's foun-  
22 dation or foundation subsidiary.

23 (3) Any funds appropriated by the state of Kansas to a university, the  
24 state board of regents, any political or taxing subdivision of the state or  
25 to the United States or any agency or instrumentality of any such entity.  
26 A foundation, or at the designation of a foundation, a foundation subsid-  
27 iary may receive, hold, administer, invest, reinvest and expend any of such  
28 appropriated funds or moneys and any funds or property which the foun-  
29 dation timely disclaims in compliance with subsection (d) in accordance  
30 with, and subject to the terms and conditions of, a written agreement  
31 entered into between such foundation or foundation subsidiary and its  
32 university which is otherwise authorized by state law or by the terms and  
33 conditions of a written agreement between such university and the state  
34 of Kansas, the state board of regents, political or taxing subdivision of the  
35 state or the United States or any agency or instrumentality of any such  
36 entity.

37 (j) The provisions of K.S.A. 76-156a, and amendments thereto, shall  
38 not apply to a gift transferred pursuant to subsection (b).

39 (k) The provisions of this section shall not supersede the provisions  
40 of K.S.A. 76-718a, and amendments thereto.

41 Sec. 2. K.S.A. 76-308 is hereby amended to read as follows: 76-308.  
42 ~~The permanent university fund shall at no time be diminished for any~~  
43 ~~purpose whatsoever. The permanent university fund shall be adminis-~~

1 ~~tered by the state board of regents for the benefit of the university of~~  
 2 ~~Kansas, and The original principal of the permanent university fund shall~~  
 3 ~~not be distributed.~~ The earnings of such fund shall be subject to appro-  
 4 priation by the legislature. K.S.A. ~~58-3601~~ 58-3610 et seq. shall apply to  
 5 the permanent university fund, except as otherwise provided by this sec-  
 6 tion and K.S.A. 76-718a, *and amendments thereto.*

7 Sec. 3. K.S.A. 76-410a is hereby amended to read as follows: 76-  
 8 410a. ~~The state agricultural university fund shall at no time be diminished~~  
 9 ~~for any purpose whatsoever. Such fund shall be administered by the state~~  
 10 ~~board of regents for the benefit of Kansas state university of agriculture~~  
 11 ~~and applied science, and The original principal of the state agricultural~~  
 12 ~~university fund shall not be distributed for any purpose.~~ The earnings of  
 13 such fund shall be subject to appropriation by the legislature. K.S.A. ~~58-~~  
 14 ~~3601~~ 58-3610 et seq. shall apply to the state agricultural university fund,  
 15 except as otherwise provided by this section and K.S.A. 76-718a, *and*  
 16 *amendments thereto.*

17 Sec. 4. K.S.A. 76-604 is hereby amended to read as follows: 76-604.  
 18 ~~The moneys of the state normal school fund shall constitute a perpetual~~  
 19 ~~fund, the principal of which shall remain forever undiminished. The state~~  
 20 ~~normal school fund shall be administered by the state board of regents~~  
 21 ~~for the benefit of Emporia state university, and The original principal of~~  
 22 ~~the state normal school fund shall not be distributed for any purpose.~~ The  
 23 earnings of such fund shall be subject to appropriation by the legislature.  
 24 K.S.A. ~~58-3601~~ 58-3610 et seq. shall apply to the state normal school fund,  
 25 except as otherwise provided by this section and K.S.A. 76-718a, *and*  
 26 *amendments thereto.*

27 Sec. 5. K.S.A. 76-718a is hereby amended to read as follows: 76-  
 28 718a. The Kansas *university* endowment association is hereby authorized  
 29 to act as the investing agent for the permanent university fund referred  
 30 to in K.S.A. 76-308, and the amendments thereto. The Kansas state uni-  
 31 versity foundation is hereby authorized to act as the investing agent for  
 32 the state agricultural university fund referred to in K.S.A. 76-410a, and  
 33 amendments thereto. The Emporia state university foundation, inc., is  
 34 hereby authorized to act as the investing agent for the state normal school  
 35 fund referred to in K.S.A. 76-604, and amendments thereto.

36 Such investing agents shall invest and reinvest moneys in such funds  
 37 in:

38 (a) Time ~~deposit~~ *deposits*, open accounts for periods of not less than  
 39 30 days, or certificates of deposit for periods of not less than 90 days, in  
 40 commercial banks located in Kansas *or offered by financial institutions to*  
 41 *the extent of insurance provided by the FDIC or NCUSIF;*

42 (b) United States treasury bills or notes with maturities as the in-  
 43 vesting agent shall determine; or

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1     (c) ~~insured savings and loan associations to the extent of the insurance~~  
2 ~~provided by the F.S.L.I.C~~ *The permanent endowment fund of the endow-*  
3 *ment association or foundation.*

4     Sec. 6. K.S.A. 76-308, 76-347, 76-349, 76-360, 76-362, 76-410a, 76-  
5 604 and 76-718a are hereby repealed.

6     Sec. 7. This act shall take effect and be in force from and after its  
7 publication in the statute book.

4-5