

SPECIAL SESSION OF 2005

**SUPPLEMENTAL NOTE ON
HOUSE SUBSTITUTE FOR SENATE BILL NO. 3**

As Amended by House Committee of the Whole

Brief*

House Sub. for SB 3, as amended, would make changes to the School District Finance and Quality Performance Act, other school funding legislation, and enact policies relating to the Kansas Department of Education, the Courts, and the Legislature. The bill would provide for increases in Base State Aid Per Pupil (BSAPP), reimpose correlation weighting, and establish a Local Activities Budget of 2 percent of the school district general fund budget. The bill appropriates funding totaling \$119,000,000 in FY 2006 and \$20,000,000 in FY 2007 for various state aid programs. The bill funds the Skills for Success Program in FY 2007, and makes other policy changes as outlined below.

Changes in the Formula

- ! Base State Aid Per Pupil (BSAPP) – Increases by \$84 from \$4,222 to \$4,306 – Estimated cost: \$46.2 million.
- ! Lock Box – Establishes a Special State Aid Fund to be released upon State Finance Council action after the Post Audit study is completed – Estimated cost: \$33.0 million.
- ! Correlation Weighting – Reimposes correlation weighting with the threshold at 1.671 – Estimated cost: \$25.0 million.
- ! Local Option Budget – Funds the increase due to the higher BSAPP – Estimated cost: \$4.8 million.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- ! Cost of Living Weighting – Allows a new property tax levy for the Teacher Salary Enhancement Fund by creating a new Cost of Living Weighting. The State Board of Education would be required to determine in which school districts the average appraised value of a single-family residence is more than 25.0 percent higher than the statewide average value. If the value is higher and that district has adopted a local option budget (LOB) that is equal to the maximum percentage allowed by law, the district would qualify to levy the ad valorem tax. The local school board would be required to pass and publish a resolution authorizing the levy, subject to protest petition. However, the bill would waive the protest petition requirement for this weighting for the 2005-2006 school year. Moneys deposited into the Fund could only be used for teacher salary enhancements for teachers living within the district that levied the tax.

- ! Local Activities Budget (LAB) – The bill would authorize school districts to make a levy for the Local Activities Budget (LAB) which would be limited to 2 percent of the school district general fund budget to be equalized at the 75th percentile. The local school district would be required to have in place a 25 percent LOB. Local school board establishment of the LAB tax would be subject to a protest petition. LAB revenue could be used only for classes or activities not required by state law or accreditation requirements of the State Board of Education. In addition, LAB revenue could not be transferred into the general fund or the supplemental general fund budgets of a district. Local school boards would be authorized to exempt certain classifications of property from the Local Activities Budget property tax – Estimated cost:\$7.5 million.

- ! KPERS-School – Fund payroll growth due to the BSAPP – Estimated Cost: \$2.5 million

- ! Declining Enrollment Weighting – Creates the declining enrollment weighting, which is applicable to any school district that has experienced an enrollment decline from the preceding school year and has adopted the maximum LOB percentage. The bill would permit a school district to appeal to the State Board of Tax Appeals for permission to levy a property tax for up to two years.

TOTAL: \$119.0 million in FY 2006

! Skills for Success Program – Fund at \$20.0 million in FY 2007.

TOTAL: \$20.0 million in FY 2007

Other Policy Changes

! Concurrent Resolution Requirement – A provision would be added in law that would require approval of the same concurrent resolution amending Section 24 of Article 2 of the *Kansas Constitution* by both the House and Senate prior to the bill taking effect.

! No Use of Public Funds for Notification – A provision would be added in law that no officer or employee of the state or federal government or any political or taxing subdivision or agency may expend public moneys or use any public property or equipment to make or enforce any order or remedy ordered by a court in the *Montoy, et al. v. State of Kansas, et al.* case that would result in the closure of public schools or the distribution of funds for public education.

! Certification of False Information – A provision would be added in law that any superintendent who knowingly certifies any budget data or other information that is false would be guilty of a class B nonperson misdemeanor.

! School District Budget Deadline – For the 2005-06 school year only, the school district budget deadline for filing the budget with county clerks would be delayed from August 25 to September 7.

! School District Contingency Fund – For the 2005-06 school year only, the cap on the school district contingency fund would be increased from 4 percent to 6 percent of the school district's general fund budget.

! Local Option Budget (LOB) – The LOB maximum percentage would be set at 25 percent and the state would be equalized at the 75th percentile.

! Funding for Instruction – A provision would be added to establish as a public policy goal of the State of Kansas that at least 65

percent of the moneys appropriated, distributed, or otherwise provided by the state to school districts would be expended in the classroom or used for instructional purposes as defined by the National Center for Education Statistics. The increased funding attributable to the \$84 increase in BSAPP must be spent for instructional purposes; the increase for instruction must not supplant the prior year's funding for instruction on a per-pupil basis.

- ! Legislative Division of Post Audit Cost Study – The scope of the Legislative Division of Post Audit cost study would be clarified to be input and outcome oriented and would be based on the State Board of Education accreditation requirements in place prior to July 1, 2005. The bill also would grant additional authority to the Legislative Post Auditor in securing documents for the study.
- ! School District Administrative Reorganization Plan – A provision would be added that the State Board of Education would be required to design an administrative reorganization plan for all school districts. In addition, the State Board would be required to submit a copy of the plan to the Legislature by the first day of the 2006 Legislative Session.
- ! Litigation Against the State – A provision would be added that no money from a school district's general fund could be spent for attorney fees or other costs in support of litigation against the State of Kansas or any state officer, official, agent, or agency.
- ! Lobbying Fees – A provision would be added that no money from a school district's general fund could be used by a school district for lobbying.
- ! Computer Reporting System – A provision would be added that the Kansas Department of Education is to have the new computer reporting system required by 2005 HB 2247 in use by December 31, 2005.
- ! Teacher Bonuses – The bill would allow the preschool at-risk, at-risk, bilingual, and vocational education funds to carry forward balances or be used for teacher bonuses when the teachers' efforts resulted in achievement of mastery of basic reading skills based on State Board guidelines (preschool at-risk and at-risk funds); in achievement of English for ESL students (bilingual

education funds); or increase in the percent of student employment placements (vocational education funds). The State Board of Education would be required to establish guidelines for the bonuses.

- ! Litigation Against the State – The bill would require that any party alleging a violation of Article 6 of the *Kansas Constitution* file a written notice with the Chief Clerk of the House of Representatives and the Secretary of the Senate that includes a statement of the factual basis of the violation and a statement of the amount of monetary damages that is being requested. Once the notice is filed, no action would be allowed until after a written response by the Kansas Legislature is received or until after 120 days has passed following the filing of the notice of claim, whichever occurs first.
- ! Litigation Against the State – A provision would be added that any cost study or audit would not be binding on the Legislature and may be rejected by the Legislature no matter when such cost study analysis or audit was commissioned or funded.
- ! Closure of Public Schools or Prevention of Distribution of Funds– A provision would be added in law that no court of the state, appointee of a court, or a judicial panel has the authority under any case involving a violation of Article 6 of the *Kansas Constitution*, including the *Montoy* case, to enforce any order or remedy that would result in the closure of public schools or prevent the distribution of funds for public education.
- ! Certification and Distribution of State Aid Payments – A provision would be added in law that the Legislature, not the State Board of Education, would be responsible for determining the amount of money to be allocated to school districts under the various state aid programs and for distributing the money. The Legislative Coordinating Council (LCC) would certify to the Director of Accounts and Reports the amount of money due to each district, which would be payable to the district pursuant to vouchers approved by the Legislature. This provision terminates June 30, 2007.
- ! Kansas Supreme Court Jurisdiction – A provision would be added in law that prevents the Kansas Supreme Court from assuming

original jurisdiction of a new legislative enactment under remedial action. Legislation would require challenge in a court of competent jurisdiction and the parties in the lawsuit would be afforded the right to a trial and its attendant due process.

- ! Legislative Counsel – Current law would be amended to provide for filling the office of “Legislative Counsel,” who shall be an attorney in private practice employed by the Legislative Coordinating Council (LCC) pursuant to a contract between the LCC and the attorney. The Legislative Counsel could not be a person who is a member of the legislature or a firm, partnership, corporation or limited liability company of which a legislator is a member or partner. The Legislative Counsel would represent the Legislature in matters relating to Article 6 of the *Kansas Constitution* and such other matters as directed by the LCC.
- ! Litigation Against the State – A provision would be added in law that clarifies that representative(s) of the Legislature may present oral and written testimony in any action involving Article 6, Section 6, of the *Kansas Constitution*. In addition, nothing in the Act would constitute a waiver of any rights and immunities enjoyed by the Kansas Legislature under the federal or state constitutions or statutes of the state.
- ! No Severability – A provision would be added in law that if any provision of this bill is held to be invalid or unconstitutional, the entire bill would be null and void.
- ! Effective Date – The effective date of the bill would be upon publication in the *Kansas Register* and passage of a concurrent resolution.
- ! Healthy Food Requirements – A provision would be added in law that beginning with the 2006-2007 school year all school vending machines, accessible to students must provide 50 percent healthy food offerings. Healthy food would not include foods of minimal nutritional value as defined by the United States Department of Agriculture under the National School Lunch Program.
- ! Special Education – A provision would be added in law that special education excess cost would be funded at 85 percent beginning in school year 2005-2006 and thereafter.

Background

House Substitute for SB 3 is in response to the supplemental opinion issued by the Kansas Supreme Court on June 3, 2005, in the school finance case, *Montoy, et al. v. State of Kansas, et al.*, in which the Court found that school finance legislation enacted by the 2005 Legislature falls short of standards set by Article 6 of the *Kansas Constitution*.

The proposal by the House Select Committee on School Finance would increase funding for elementary-secondary education in several areas, including: BSAPP, special education, and the newly created Local Activities Budget. The bill would clarify the scope of the cost study to be input and outcome oriented and based on performance standards established by the State Board of Education prior to July 1, 2005.

The House Committee of the Whole deleted the House Select Committee funding provisions and replaced them with increases in BSAPP, correlation weighting, lock box funding, and LAB. In addition, the Committee of the Whole deleted several provisions and added the following policy provisions:

- ! Healthy Food Requirements
- ! Concurrent Resolution Requirement
- ! No Use of Public Funds for Notification
- ! Lobbying Fees

The Committee of the Whole amended the following provisions:

- ! Certification of False Information
- ! Teacher Bonuses
- ! Legislative Counsel

The table below shows, for selected aspects of the school funding formula, how House Substitute for SB 3 builds upon funding already appropriated for education by the 2005 Legislature.

**Selected Changes to Formula Based on
2005 HB 2247 and House Sub. for SB 3**

Prior Law	HB 2247	House Sub. for SB 3	Total
BSAPP – \$3,863 (allotment rate)	\$4,222 \$63.3 million	\$4,306 \$46.2 million	\$109.5 million
At-Risk Weighting – 0.10	0.145 \$26.0 million		\$26.0 million
Special Education – 81.5%	85% \$17.7		\$17.7 million
Bilingual Education – 0.20	0.395 \$11.0 million		\$11.0 million
KPERS-School	NA*	\$2.5 million	\$2.5 million
LOB	Growth due to higher BSAPP \$6.4 million	Growth due to higher BSAPP \$4.8 million	\$11.2 million
Correlation weighting deleted		Reimposed at 1,671 \$25.0 million	\$25.0 million
Lock Box Funding		\$33.0 million	\$33.0 million
Local Activities Budget at 2%		Equalized at 75th percentile \$7.5 million	\$7.5 million
FY 2006 TOTAL	\$124.4 million	\$119.0 million	\$243.4 million
FY 2007			
Skills for Success Grant		\$20.0 million	\$20.0 million
FY 2007 Total		\$20.0 million	\$20.0 million

* Increases in KPERS-School due to higher BSAPP were not calculated separately from other increases.