



# Greeley County Schools

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Date: March. 5, 2025

To: House Committee on Local Government

From: John Niehues, Superintendent USD 200 Greeley County Schools

RE: Virtual Testimony on SB2 – Proponent

Dear Chair Bergquist and Members of the House Committee on Local Government,

I am John Niehues, the Superintendent of USD 200, Greeley County Schools. Testifying on behalf of USD 200 Board of Education as a proponent of SB2. This would allow us to proceed with a 4.6 million dollar bond issue to build an ADA-compliant playground, ADA-compliant locker rooms, and a second gym/PE space. Greeley County Voters approved the bond issue in May 2024 with amendments.

I am submitting an updated version of my testimony from the Senate Committee on Local Government, Transparency, and Ethics as well as Senate Committee on Ways and Means. That testimony can be found on their pages on January 28<sup>th</sup> and February 11<sup>th</sup>, 2025, respectively.

I want to highlight that the school district and bond counsel self-reported the issue to the Attorney General's office as soon as it was known. To our knowledge, it was not contested in any court as outlined by post-election statute.

In 2023, K.S.S. 10-120 and 25-105 were amended to state that "Notice of the election shall also be published on the website of the county election office of any county where the election is to be conducted." Upon searching and looking at several counties throughout the state, I found that some election websites can be complicated to locate or confusing as material may not be posted in one common location. After reviewing this statute and prior precedent, our bond counsel presented the following statute as rational why the vote should still be considered valid.

## **K.S.S 25-716. Plurality of votes to govern question submitted election.**

(a) Notwithstanding the fact that the provisions of law may not have been fully complied with in noticing and conducting a question submitted election and *so that the real will of the people may not be defeated by any technical irregularity of any officer*, whenever the greater number of votes were in favor of a question submitted, the question shall be deemed to have carried and likewise if the greater number of votes were against a question submitted, the question shall be deemed not to have carried.

The Kansas Supreme Court has previously stated that "[a]n election irregularity will not invalidate an election unless it is shown to have frustrated or to have tended to prevent the free expression of the electors' intent, or to have otherwise misled them." *Lambeth v. Levens*, 237 Kan. 614, 617 (1985).

The absence of the post did not meet the statute, but it also didn't negate or damage the community's understanding that there was a special election or what it was for. The fact that the county didn't comply with the statute by posting the notice online did not mislead, prevent free expression, or substantially affect the vote or outcome, as there was no expectation of it being posted on a site that, at best, very few or any community members would know needed to exist. The Greeley County Republican is the official newspaper and notification entity for Greeley County. While I understand that many newspapers face challenges, ours remains vibrant. As a small county, it is straightforward for our Unified Supervisors to select an official newspaper, as it is the only operating print newspaper in the county, with the Greeley County Republican having been a



county tradition since 1887. In Greeley County, the local newspaper is the primary way of connecting with residents and life as we know it. The statutory requirement of newspaper publishing was met in addition to at least eight other articles or publications.

Based on this issue, our county officials have since relied on an unofficial website run by community development, with only the community development director having access. The Greeley County Supervisors have not adopted or formally recognized the Community Development Site as the official county election website. At this time, they have yet to create or adopt a website. This also leads to a separate question: What constitutes an official county website, and as a government organization, should the Top-Level domain be .gov instead of .com or .org? Take, for instance, the mass change at the state level over the last year from .org to .gov.

In Kansas, general elections are reviewed and signed off by the Secretary of State, while bond elections are reviewed and signed off by the Attorney General's office. In all general election cases, the Secretary of State has certified and validated that the election has met all requirements. In this instance, the Attorney General's office views almost identical language differently and did not validate the election. Our county has not complied with the statutory posting requirement in any election since 2023, except for the most recent general election. However, one could contest that since the community development site is not owned, operated, controlled, or officially adopted by the county, it could easily be determined that it did not meet the statutory requirement. If we applied the AG's interpretations, one could argue that the statute was not met for the elections of four School Board Members, three Supervisors, a Clerk, a Treasurer, a Register of Deeds, an Attorney, a sheriff, or any state or national vote totals counted. If this were the case, we could be deemed an unincorporated county with no local control or authority. Two elected state officials interpret virtually the same language in two different statutes unequally, creating confusion for Kansans.

Senate Bill 2, Sec. 1 is specific to the May 21, 2024, election and about bonding authority from that election, not the district's total bonding authority. It is also pertinent to bring the committee's attention to the information shared in the fiscal and supplemental notes. In this case, dealing with appropriations at the state level, USD 200 for Greeley County Schools does not qualify for capital state aid. Also included in the note is the Attorney General's report that there was no fiscal effect. This election was passed at the local level to levy local taxes. We do not qualify, and there is no state aid or effect from this election. Due to this, we do not affect the amount or count toward the retired bond amounts when KSDE approves bond election applications to move forward.

In closing, USD 200, Greeley County School District met all requirements set forth as an entity that were within our control to run an election. Our bond counsel provided all documentation and requirements to the county election official. The district paid to fund a special election through the county election office. Said funding should have ensured all statutory requirements and postings were met. We believe an oversight, omission, or failure of one government entity should not overshadow another that took all the correct steps and did the right thing by self-reporting the issue. Therefore, we hope you will support SB2.

I appreciate your time in this matter. Like you, I serve at the will of the public and am eager to move this issue forward, as the voters of Greeley County requested.

Kindly,  
John Niehues  
USD 200 Board of Education

A handwritten signature in blue ink that reads "John Niehues". The signature is written in a cursive style with a large initial "J".