

**MINUTES**

**LEGISLATIVE EDUCATIONAL PLANNING COMMITTEE**

December 4, 2003  
Room 514-S—Statehouse

**Members Present**

Senator Dwayne Umbarger, Chair  
Representative Kathe Decker, Vice Chair  
Senator Christine Downey  
Senator Bob Lyon  
Senator Lana Oleen  
Senator John Vratil  
Senator Mark Taddiken  
Representative Carol Edward Beggs  
Representative Eber Phelps  
Representative Larry Powell  
Representative Bill Reardon

**Members Absent**

Representative Bill Mason  
Representative Barbara Ballard

**Staff**

Mary Galligan, Kansas Legislative Research Department  
Deb Hollon, Kansas Legislative Research Department  
Carolyn Rampey, Kansas Legislative Research Department  
Kathie Sparks, Kansas Legislative Research Department  
Art Griggs, Office of the Revisor of Statutes  
Theresa Kiernan, Office of the Revisor of Statutes

**Conferees**

Dale Dennis, Deputy Commissioner, State Department of Education  
Larry Isaak, President, Midwest Higher Education Commission  
Gary Vesta, Director, Flint Hills Job Corps Center  
Dan Biles, Attorney for the State Board of Education

## **School District Employee Health Insurance**

Dale Dennis, State Department of Education, presented information about school district employee health insurance ([Attachment 1](#)). Based on results of a survey of school districts for school year 2003-04, 291 districts make health insurance programs available and 11 districts offer no health insurance program. School districts were asked to report the highest monthly total cost (employer and employee share) for single and family memberships and the amount each school district pays toward a single membership. The highest monthly total cost for single employee health insurance ranges from a low of under \$200 (two districts) to more than \$500 (seven districts). About half of the districts are in the \$300 to \$400 range. The highest monthly total cost for family health insurance ranges from under \$500 (one district) to more than \$1,300 (two districts), with 190 districts in the \$700 to \$1,000 range. The amount paid by school district boards for single employee health insurance ranges from none (13 districts) to more than \$500 (one district).

Mr. Dennis was asked to explain whether school districts would be interested in participating in the state employee health insurance plan. The plan requires the employer to pay 95 percent of the costs for single employee health insurance and up to 35 percent for family health insurance. (For FY 2004, the state pays, per month, \$330 for single health insurance and that amount, plus \$153 per dependent, for family health insurance.)

Mr. Dennis said some school districts do participate in the plan. ([See Attachment 2](#), which lists 31 member districts.) He said most school districts are agreeable to paying the amount for single employee health care plans but are afraid to commit to paying 35 percent of family insurance costs because they do not know what rates will be in the future. He said an option would be to allow districts to participate in the state plan for single member insurance and to give the district the option of deciding whether the employer or the employee would pay for family health insurance. Mr. Dennis said he does not think the state insurance plan requirement that 75 percent of eligible employees participate would daunt school districts and reiterated that the main concern of districts is the cost of the family plan.

When asked if school districts form self-insurance pools, Mr. Dennis said that they had the authority to do so and several have, but the number of self-insurance pools has declined to under three, primarily because school districts do not have the expertise to operate insurance pools.

## **Midwestern Higher Education Commission**

Larry Isaak, President of the Midwestern Higher Education Commission (MHEC), discussed the mission of the Commission and described current activities ([Attachments 3 through 7](#)). He said Kansas was the first state to enact implementing legislation to become a member of the compact, which evolved from a need identified by the Midwest Council of State Governments to have an educational compact to represent states in the Midwest. The ten member states, in addition to Kansas, are Illinois, Indiana, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, and Wisconsin.

The Commission has identified the following purposes, to be obtained for member states through interstate cooperation and resource sharing:

- Productivity and administrative cost savings.
- Policy analysis and information exchange.
- Student access and affordability.

- Regional academic cooperation.
- Quality educational services.
- Educational innovation.

Current programs and activities include the following:

- **Midwest Student Exchange Program.** Participating member states obtain access for their students to attend college in other states at reduced rates. More than 124 campuses participate. Since 1994, more than 12,000 students have participated, at an estimated savings of more than \$35 million.
- **Master Property Program.** The program provides comprehensive property coverage specifically tailored to the needs of campuses. Insurance value is more than \$40 billion for 36 participating institutions.
- **Novell/MHEC Higher Education Collaborative.** Institutions receive the highest discount level Novell offers on academic software licensing (a 46 percent discount regardless of the size of the institution). In the first year of the Collaborative, institutions have achieved more than \$994,000 in savings.
- **American TelEdCommunications Alliance.** The Alliance provides voice/data/video programs to more than 14,000 members nationally, including more than 9,000 in the MHEC region. To date, savings are estimated to be more than \$14.5 million.
- **Computing Hardware and Software Programs.** The program provides affordable access to computing resources for colleges, universities, and their students. Savings of \$2 million have been achieved on \$21.2 million in hardware purchases.

According to Mr. Isaak, Kansas' participation in MHEC programs in FY 2003 resulted in total savings of \$3,459,209, of which more than \$3.0 million was due to the Midwest Student Exchange Program. Kansas' dues to the Commission for the period were \$82,500.

Mr. Isaak told the Committee that participation in MHEC programs is not limited to institutions of higher education, but can include state agencies and school districts. Senator Oleen, who is Chair of the Commission, urged that every effort be made to publicize the Commission's activities among non-educational institutions. She responded to a specific question about why the University of Kansas and Kansas State University dropped out of the MHEC insurance program by saying that Kansas has another plan that state universities have to belong to.

Reginald Robinson, MHEC Commissioner and President and Chief Executive Officer of the State Board of Regents, praised the work of the Commission and agreed to take every opportunity to disseminate information about its programs and activities.

## **Flint Hills Job Corps Center**

Gary Vesta, Director of the Flint Hills Job Corps Center, presented information about the Center ([Attachment 8](#)). The Job Corps program, funded through the U.S. Department of Labor, began in 1964. There now are 118 centers whose operations generally are contracted to private operators. The program's goal is to help economically disadvantaged youth become more productive by providing comprehensive services in a residential setting, including education, vocational skills training, and counseling.

The Flint Hills Job Corps Center opened in February 1992 in Manhattan and offers seven programs in vocational areas and academic programs in ten areas, including high school completion and preparation for the General Educational Development (GED) certificate. Students who enter the Job Corps without a high school diploma or without a GED certificate complete one or both before leaving the program. Students also complete a vocational program. Goals of the program are that successful completers are expected to be placed in a job within one year after leaving the program and are expected to still be working 12 months after initial placement.

Mr. Vesta informed the Committee that the Flint Hills Job Corps Center has attained a 99.1 percent rating on outcomes, such as program completion, job placement, and earnings of completers, and is ranked 26<sup>th</sup> among 1,178 centers for the reporting period July 1, 2003, to October 31, 2003. It currently enrolls 270 students, which is 102 percent of capacity. Forty students are on the waiting list and occasionally students are enrolled in centers that have openings in other states. Senator Oleen told the Committee that early concerns in the Manhattan community about having a Center nearby have dissipated and the Center and its students have been welcomed into the community.

One issue Mr. Vesta raised with the Committee is the fact the USD 383 (Manhattan) provides the high school component of the Center's academic program and requires students to complete a 24-unit requirement to graduate. This requirement exceeds the 21 units required by the State Board of Education, with the additional hours being comprised of academic requirements intended to better prepare students to succeed in college. Mr. Vesta said that he believes the school district should offer an alternate graduation requirement targeted at students who intend to pursue a vocational track so that students who have no intention of going to college will be able to meet the graduation requirement without having to take courses for college-bound students.

In response to a question, Mr. Vesta said the Center is not generally for special education students, although such students are admitted if there is a chance they can participate. Mr. Vesta explained that some special education students struggle and really are not able to benefit from the programs.

Committee members discussed the USD 383 graduation requirements and encouraged Mr. Vesta to work with the school district to see if an alternative high school diploma could be developed which meets the State Board of Education 21-unit graduation requirement and tailors any additional requirements imposed by the local board of education to a vocational track for students who do not intend to go to college.

## **Report on Judge Bullock's Decision**

Dan Biles, Attorney for the State Board of Education, reported to the Committee his perspective on Shawnee County District Court Judge Terry Bullock's opinion in *Montoy v. State of Kansas et. al.* Mr. Biles was the attorney for the State Board of Education in the case and defended the state in arguing that the current school finance law is constitutional ([Attachment 9](#)).

In his opinion, Judge Bullock finds that the school funding structure in Kansas violates Section 1 of the Kansas Bill of Rights, the Fourteenth Amendment of the *United States Constitution*, and Section (6b) of the *Kansas Constitution*. In his findings, Judge Bullock writes: “Based upon the uncontroverted facts in the record before the Court, the Court finds as a matter of fact and law that the funds provided to Kansas school districts by the Legislature under the present financing scheme as applied is clearly and grossly inadequate to provide Kansas children a suitable education (as that term is defined by both this Court and the Legislature itself) and, as such, in violation of Article 6 of the *Kansas Constitution*.”

Specific items in the decision, as pointed out by Mr. Biles, are the following:

- Differences based on evidence of actual costs. Any differences in funding to public schools (for example, weighting factors) must have a rational basis and be justified by evidence as to the actual costs necessary to provide the educational opportunity the extra funding is supposed to accommodate. According to Mr. Biles, Judge Bullock has made the “rational basis” argument more stringent by requiring that funding differences be based on empirical studies of cost differences, which was not the case when the Kansas Supreme Court ruled on the current school finance law in 1994.
- Overall Funding Level Is Inadequate. Judge Bullock refers to the Augenblick and Myers study, commissioned and supported by the State Board of Education and the Legislature, which concluded that providing a suitable education would cost more than Kansas presently spends. The Judge concludes that, based on the Legislature’s own study, Kansas is not adequately funding the costs of a suitable education.
- The Achievement Gap Demonstrates the Legislature Is Violating Its Duty to Provide a Suitable Education to Every Child in Kansas. The Court finds that there is a constitutional duty owed each child and that the funding structure in Kansas has a disparate impact on poor, minority, disabled, and children not fluent in English.
- State Dominance Over Local Education. The state is held accountable for student performance (suitable educational opportunity is owed to each child) and must be certain that local districts use their funds to help students actually perform. Mr. Biles considers that this finding ties the state’s performance of its constitutional duty more to actual student outcomes and less to the notion of simply providing educational opportunities.
- Special Education Funding Is Unconstitutional. The Court finds the practice of funding only part of the costs of special education excess funding not to be rational because it takes money away from regular education.
- Capital Outlay Is Unconstitutional. The Court finds that, because the cap on capital outlay was removed, wealthy districts are able to raise virtually unlimited funds for the construction and maintenance of buildings and the purchase of new equipment, with no provision for power equalization for poor districts unable to do likewise.
- Sales Tax Revenue Is Suspect. The Courts notes that one reason why some school districts have larger budgets per pupil is access to sales tax revenue.

Judge Bullock's order is preliminary and final judgment will be made on July 1, 2004. According to the Judge, this delay will give the Executive and Legislative Branches a full legislative session to correct the constitutional flaws outlined in the opinion. Specifically, the Court retains jurisdiction to:

- □ Then determine whether the problems outlined have been corrected and, if so, to dismiss the case; or
- □ Issue further orders and take such further steps as may be required to enforce our constitutions if the other branches of government fail to do so.

### **Instructions to Staff for Bill Drafts and Final Report**

The Committee reviewed topics studied during the interim and made the following decisions regarding legislation to be introduced and the final report:

- Upon a motion by Senator Vratil, seconded by Representative Reardon, the Committee agreed to recommend the introduction of legislation patterned after 2003 HB 2145, with amendments proposed by El Centro, Inc. (Attachment 10). The amendments would make a student who qualifies for resident status in another state ineligible for Kansas resident status under the bill and would require a student claiming resident status under the bill to sign an affidavit of intention to become a United States citizen. It is part of the motion that the bill be referred to the Senate. Senator Taddiken is recorded as having opposed the motion.
- Upon a motion by Senator Vratil, seconded by Representative Phelps, the Committee agreed to recommend the introduction of legislation, as requested by the State Board of Regents. Components of the request are the following:
  - □ Authorize technical colleges to make a mill levy for adult basic education.
  - Authorize technical colleges to make a mill levy for operating expenditures.
  - Require that interest earned on the General Fees fund and certain other special revenue funds be credited back to the fund that generates the earnings and not to the State General Fund.
  - Authorize the State Board of Regents to charge a fee for activities related to approving private degree granting institutions and repeal the registration requirement pertaining to out-of-state schools that offer, in Kansas, fewer than 30 hours leading to a degree.
  - Authorize Kansas State University to sell land to the K-State Foundation for the purpose of constructing a hotel to serve as an on-campus laboratory for the hotel and restaurant management program.
  - Authorize expenditure of funds from the General Fees Fund for capital improvements as well as the current uses of salaries and wages and other operating expenditures.

- Upon a motion by Senator Vratil, seconded by Senator Oleen, the Committee agreed to recommend the introduction of legislation concerning Learning Quest to do the following: (1) Allow the State Treasurer to set the cap on the maximum account balance; (2) increase the amount of the income tax deduction for account owners from \$2,000 to \$4,000 for individual taxpayers and from \$4,000 to \$8,000 for married couples filing jointly; and (3) cross reference the exemption for Learning Quest accounts from bankruptcy and garnishment procedures in the Civil Code in the statute books to the section of law that deals specifically with Learning Quest.
- By consensus, the Committee agreed to note in its report that positive behavior supports has been used by some school districts with great success and is an option that any school district can implement. However, the Committee does not wish to single any particular method or system out for an incentive grant, particularly in a time of scarce financial resources.
- Upon a motion by Senator Downey, seconded by Senator Oleen, the Committee agreed to support the continuation of funding for the Jones Institute for Educational Excellence at the level requested by Emporia State University (\$400,000 from the State General Fund for FY 2005).
- Upon a motion by Representative Decker, seconded by Senator Taddiken, the Committee agreed to recommend the introduction of legislation to provide a financial incentive to school districts to consolidate. To qualify, school boards would have to have taken official action to consolidate by July 1, 2004, and the consolidation process would have to be completed by July 1, 2005. The districts shall be considered to have completed the process when the State Board of Education issues an order approving the consolidation. Districts that do not complete the process until July 1, 2005, would qualify for two additional years to receive the amount of state financial aid they received in the preceding year or the amount of state financial aid they would receive under the school finance formula in that year, whichever is greater.
- Upon a motion by Representative Reardon, seconded by Senator Vratil, the Committee agreed to recommend that funding for Smart Start be increased from approximately \$3.0 million to \$10.0 million, with the additional funding to come from increasing the transfer of tobacco settlement payments in the Kansas Endowment for Youth Fund to the Children's Initiatives Fund. The Committee also recommends that existing programs funded from the Children's Initiatives Fund be reviewed to determine whether they meet the statutory guidelines set forth for programs funded from the Children's Initiatives Fund. Senator Umbarger is requested to correspond with the Chairs of the Senate Ways and Means Committee and the House Appropriations Committee informing them of the Committee's recommendation.
- By consensus, the Committee directed Senator Umbarger to correspond with the Chairs of the Senate Public Health and Welfare Committee, the House Health and Human Services Committee, the Senate Ways and Means Committee, the House Appropriations Committee, and the chairs of the budget subcommittees that consider the budgets of the Regents institutions calling attention to the report from the Kansas Nursing Workforce Partnership concerning the nursing shortage in Kansas and expressing the Committee's concern. In addition, the Committee recommends that additional funding be

approved for the Kansas Nursing Scholarship Program to address the waiting list for that scholarship.

- By consensus, the Committee directed Senator Umbarger to correspond with the Chairs of the Senate Ways and Means Committee, the House Appropriations Committee, and the budget subcommittees that consider the budgets of the Regents institutions to make them aware of the fact that Kansas currently ranks 34<sup>th</sup> nationally in terms of student assistance. Furthermore, the Committee believes that, as tuition increases, the state must make accommodations for students in need.
- By consensus, the Committee recommended that the House Higher Education Committee and the Senate Education Committee monitor the progress of the Higher Education Reauthorization Act, which currently is in Congress.
- By consensus, the Committee directed Senator Umbarger to correspond with the Chairs of the Senate Ways and Means Committee and the House Appropriations Committee expressing concern about the Legislature's failure to fully fund 1999 SB 345 and noting that, as a result, community college mill levies have risen.
- By consensus, the Committee encourages the Director of the Flint Hills Job Corps Center to work with the Manhattan school district to see if an alternative high school diploma could be developed which meets the State Board of Education 21-unit graduation requirement and tailors any additional requirements imposed by the local board of education to a vocational track for students who do not intend to go to college.

## **Committee Minutes**

Upon a motion by Representative Phelps, seconded by Representative Decker, the Committee approved the minutes of the November 19 meeting.

The meeting was adjourned.

Prepared by Carolyn Rampey

Approved by Committee on:

December 29, 2003

(date)