

## MINUTES OF THE SPECIAL SESSION SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 10:15 a.m. on June 20, 2005, in Room 519-S of the Capitol.

Committee members absent: Barbara Allen- excused (Karin Brownlee appointed for Special Session)  
Chris Steineger- excused (Anthony Hensley substituting)

Committee staff present: Carolyn Rampey, Kansas Legislative Research Department  
Kathie Sparks, Kansas Legislative Research Department  
Theresa Kiernan, Office of Revisor of Statutes  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Alan Conroy, Director, Kansas Legislative Research Dept.  
Barbara Hinton, Legislative Post Auditor  
Dale Dennis, Deputy Commissioner, State Board of  
Education

Senator Schodorf noted that the Committee's charge was to develop a plan for spending an additional \$143,000,000, or another amount, on education if appropriated. She commented that the development of the plan would not force committee members to take a position on how they would vote in session. She pointed out that the purpose of the meeting was to develop a bill so that it would be ready for introduction when the Special Session convened on Wednesday, June 22. She emphasized the importance of a tentative agreement, subject to change, regarding all weighting factors. Before opening committee discussion, she called upon staff for a review of the most recent rulings of the Kansas Supreme Court relating to school finance.

Theresa Kiernan, Office of Revisor of Statutes, outlined the decision in *U.S.D. 229 v. State of Kansas* in which the Supreme Court upheld the provisions of the 1992 school finance law, and she also reviewed the decision in *Montoy, et al. v. State of Kansas, et al.*, in which the Court held that the Legislature had failed to make suitable provision to finance the public school system. In addition, she discussed the order the Supreme Court issued in advance of oral arguments to consider the 2005 education funding legislation and the supplemental opinion to the Montoy case which the Court issued on June 3, 2005. She then listed answers to the question, "What is the Supreme Court telling the Legislature in its latest decision as to suitable finance?". In conclusion, she stated, "When reviewing any law passed during the special session, it (the Court) most likely will use the broader scope of review it used with 2005 **HB 2247**." (Attachment 1)

Ms. Kiernan confirmed Senator Vratil's statement that the Montoy decision entered by the Supreme Court on January 3, April 15, and June 3, 2005, did not overrule any aspect of the decision in the U.S.D 229 case.

Carolyn Rampey, Kansas Legislative Research Department, outlined the specifics of the Kansas Supreme Court Supplemental Opinion in *Montoy, et al. v. State of Kansas, et al.* At the outset, she noted that the Court ruled that the Legislature must show that actual costs were used when funding education and that the distribution of funds was equitable. In the supplemental opinion in the school finance case issued on June 3, 2005, the Court found that the 2005 school finance legislation fell short of standards set by Article 6 of the *Kansas Constitution*, citing a "continuing lack of constitutionally adequate funding" and "inequity-producing local property tax measures." Ms. Rampey went on to discuss four specific policies enacted by the 2005 Legislature in **HB 2247**, as amended by **SB 43**, which the Court examined and ordered that they not go into effect. In addition, she discussed the 2005 Legislature's directive to the Legislative Division of Post Audit to conduct a professional cost study to determine the costs of delivering the kindergarten and grades one through 12 curriculum, related services, and other programs mandated by state statute in accredited schools. She noted that the Court found the directive to be deficient because it limited the study to "inputs" only, and the Court expanded the scope of the study to include "outputs." She went on to discuss the concerns the court had with regard to the base state aid per pupil, at-risk weighting, bilingual education weighting, special education, and local option budgets. With regard to the total funding the Supreme Court required, she noted that the Court heavily relied on the Augenblick and Myers study which was commissioned by the 2001 Legislature and overseen by the Legislative Educational Planning Committee (LEPC) and which was completed in 2002. (Attachment 2)

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Following committee discussion and questions concerning the methods used in the Auguenblick and Myers study and the outcome of the study, Senator Schodorf called upon Alan Conroy, Director of the Kansas Legislative Research Department, for an update on state revenues.

Mr. Conroy distributed a packet of information which included the following: (1) a copy of the report by the Consensus Revenue Estimating Group on total State General Fund receipts through May of 2005, (2) a copy of a memorandum to the Governor and the Legislative Budget Committee regarding consensus revenue estimates for fiscal years 2005 and 2006, (3) two tables regarding state general fund receipts, expenditures and balances as projected for FY 2005-FY 2008, and (4) an outline of State General Fund out-year demands. (Attachment 3) As he discussed the information, he pointed out that, at the end of May, actual general fund receipts were \$75.6 million, or about 1.8 percent above the estimate, and receipts from taxes only was \$72.6 million, or 1.7 percent above the estimate. He also noted out that the informal finding of the Consensus Estimating Group was that the combined estimate for FY 2005 and FY 2006 needed to be increased by \$172.0 million. He called attention to data which showed that of the \$172.0 million, \$88.0 million was in individual income taxes between the two years, and \$70.0 million was in corporate income taxes for the two years.

Barbara Hinton, Legislative Post Auditor, followed with a report on issues relating to the cost study analysis required under **HB 2247** passed by the 2005 Legislature. In her opinion, the language in the bill could potentially be read as incorporating two distinctly different and incompatible interpretations of the costs to be included in the study. She explained scenario one, which would include only the cost of those resources needed to fund what is mandated by state statute in schools that are accredited by the Board of Education with additional costs added for special needs students (input-based approach), and scenario two, which would include the cost of those resources needed to achieve certain outcomes adopted by the Board of Education in its school accreditation standards (outcomes-based). She requested that the Legislature clarify which Board standards are to be used by Post Audit as a basis of the cost study analysis so that neither the Post Audit Committee nor the Legislative Division of Post Audit is put in the position of having to interpret which type of study the Legislature wanted. She noted that, based on the conference committee discussion, it was her understanding that **HB 2247** called for the outcomes-based approach. She went on to say that, if the Legislature determined that the outcomes approach was the intended method for the cost study, there was an issue as to which standards should be used due to the fact that the Board of Education adopted new standards on January 1, 2005, which go into effect on July 1, 2005. (Attachment 4)

Senator Vratil confirmed that the conference committee intended that student outcomes be a part of the cost study and that committee members were fully aware at the time that the Board of Education had adopted standards which would be going into effect on July 1, 2005. Committee discussion followed regarding the two cost study methods and the projected cost to Post Audit for consulting services related to the study. Ms. Hinton emphasized that, if the Legislature did not clarify which method was to be used in the cost study analysis, Post Audit would have to conduct two separate studies (one using the input-based approach and one using the outcomes-based approach).

The meeting was recessed at 12:05 p.m. until 2:00 p.m.

Senator Schodorf called the meeting to order at 2:10 p.m. at which time she called upon Dale Dennis, Deputy Commissioner, State Board of Education, for a report on potential schedules which might be used by school districts when preparing their 2005-06 budgets, assuming that the Special Legislative Session adjourned on June 30. Mr. Dennis distributed copies of potential schedules for school districts with daily newspapers and districts with weekly newspapers. He noted that budget preparation would require eight working days. (Attachment 5)

Senator Hensley distributed a Department of Education computer printout of data based upon a proposed school finance plan he developed along with Senator Lee. (Attachment 6) He explained that the proposed plan would basically continue the law as was passed in **HB 2247**, which eliminated correlation weighting and low enrollment weighting and raised the base state aid per pupil to \$4,107. At-risk weighting, bilingual education weighting, and special education weighting would be increased, and an additional \$163 would be added to the base state aid to pupil. The total cost of the proposed plan (\$144,200,00) when combined with the provisions in the bill which passed would be \$285,228,000.

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Senator Vratil compared **HB 2247** with the plan presented by Senator Hensley as follows:

	<b>HB 2247</b>	<b>Proposed Plan Increase</b>
At-risk weighting	\$26 million	\$60.4 million
Bilingual weighting	\$11 million	\$ 2.5 million
Special education	\$17.7 million	\$28.4 million

Senator Vratil also noted that the \$163 increase in base state aid per pupil in Senator Hensley’s plan amounted to an additional \$26.6 million and that \$8.6 million was added to equalize the local option budget.

Senator Hensley moved to introduce the conceptual school finance bill he presented, seconded by Senator Lee. The motion carried.

Senator Vratil distributed copies of a school finance proposal which he developed along with Senators Wysong and Allen. (Attachment 7) He explained that, in drafting the proposal, they tried to respond a number of the criticisms that the Supreme Court expressed in their opinion of June 3, 2005. In addition, they tried to recognize the lengthy negotiations and the compromises that went into **HB 2247**. He noted that the proposal would increase funding for education by \$143.0 million. He discussed the seven components of the proposal. He pointed out that the proposal, combined with what was in **HB 2247**, would double the at-risk weighting, and it would increase special education funding by \$16.0 million. He confirmed that item 6 shown on the handout would equalize 16 school districts and that item 7 would equalize 4 school districts. He noted that the Court’s criticism dealt with wealth based disparity, and the proposed equalization to the 75<sup>th</sup> percentile in items 5 and 6 would eliminate that disparity. Committee questions and discussion followed.

Senator Vratil moved to introduce the conceptual school finance bill he proposed, seconded by Senator Brownlee. The motion carried.

Senator Schodorf distributed copies of a Legislative Research Department summary of a proposed school finance bill (totaling \$150.5 million) sponsored by Senators Derek Schmidt, Jean Schodorf, Dwayne Umbarger, Peter Brungardt, Vicki Schmidt, and Pat Apple. (Attachment 8). The major features of the proposal included: (1) an increase in base state aid per pupil by \$65.0 million, (2) a \$32.0 million increase for at-risk weighting, (3) a \$15.8 million total increase for special education, (4) equalization of the capital outlay program up to the 8 mill limit (\$18.0 million), (5) an increase in KPERS school fund payroll growth due to the base state aid increase (\$2.5 million), (6) funding the local option budget increase due to the higher base state aid (\$6.6 million), and (7) property tax relief for school year 2005-06 and for future years (\$40.0 million). Among other policies, the proposed bill would create an “At-Risk Council” which would report to the Governor and to the 2010 Commission by the beginning of the 2006 Legislative Session. Senator Schodorf also called the Committee’s attention to copies of a Department of Education computer printout which was based upon the factors included in the proposal. (Attachment 9)

Senator Derek Schmidt responded to questions from committee members concerning the effect the proposed bill would have with regard to levies for local option budgets. He called attention to the last two columns of the printout, noting that the millage equivalency of buy down was on the far right in column number 11, and what that meant in terms of dollars for the district was shown in column number 10. He noted that the Supreme Court opinion issued on June 3 made it clear that equity is a problem, and the Legislature needed to remedy it. He explained that one of the effects of the proposal would be shrinking the gap between richest and poorest districts made by property wealth. He commented, “The Court did not strike down the three new local option pieces and say they’re never going to be enforced. To the contrary, the Court entered a stay on those pieces and, in effect, said you can’t have your dessert until you finish your peas. By moving down the road of trying to fix the Constitutional flaws in the formula and equalize what we’re doing, this moves us in the direction of those with an interest in that subject matter, making a case to the Court that it’s time for dessert now, free the hostages if you will. So, I think there is some benefit to every part of the state in moving toward additional equalization, at least in the long run and for some in the short run.” He went on to say, “To the extent that our proposal puts \$150 million in, it targets the overwhelming bulk of that money to areas which are not distorted, in the Court’s words, by low enrollment weighting. It puts them in the at-risk weighting factor. It puts them in special education. It puts them in equalizing capital outlay. It puts them into a \$40.0 million LOB buy down/further equalization provision. None of which are further distorted to the extent there is a distortion by low enrollment weighting. So, the fact that we put in only \$65 on base and directed the rest of the money to other areas addressing the Court’s concern, I think tends to

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minimize any problems there.” Senator Schmidt continued to take part in Committee discussion which followed regarding the provisions in the proposed school finance bill.

Senator Schodorf moved to introduce the conceptual bill as summarized in the handout prepared by the Legislative Research Department, seconded by Senator Apple. The motion carried.

Senator Schodorf called upon Ms. Rampey for a review of the three-year plan in **SB 246** (2005 Session), which involved amendments to the School District Finance and Quality Performance Act and other school funding legislation. Ms. Rampey summarized the supplemental note on **SB 246** as amended by the Senate Committee on Education. (Attachment 10)

Senator Schodorf opened a discussion on funding for special education excess costs in the plan by quoting the portion of the *Montoy v. State of Kansas* decision (page 11) which addresses the provision for special education in 2005 **HB 2247**. Mr. Dennis responded to committee questions concerning 100 percent reimbursement for a district’s special education costs and the identification of students eligible for special education money. Senator Schodorf noted that legislators were concerned about the results of a Post Audit study which documented that some districts were receiving over 100 percent of excess costs.

Senator Goodwin moved to include special education excess costs in the plan at no less than 90 percent, seconded by Senator Pine.

Senator Teichman made a substitute motion to include special education excess costs in the plan at no less than 94 percent, seconded by Senator Lee. The substitute motion failed.

Senator McGinn made a substitute motion to include special education excess costs in the plan at no less than 92 percent, seconded by Senator Teichman. The substitute motion carried.

For the Committee’s information, copies of a data sheet comparing school finance funding options, prepared by the Legislative Research Department, were distributed. (Attachment 11)

Senator Schodorf opened committee discussion regarding the possibility of including additional funding for at-risk students in the plan.

Senator McGinn moved to raise the at-risk weighting to 0.2 (\$29.7 million), seconded by Senator Brownlee. The motion carried.

Senator Schodorf opened committee discussion on bilingual weighting. Mr. Dennis noted that the 2005 Legislature increased the weighting from 0.2 to 0.395. He explained that the weighting was slightly less than double, but the dollars were slightly more than double because of the increase in base state aid. Senator Lee commented that the Supreme Court’s decision in the Montoy case stated, “Although the increase in this weighting is significant, it still differs substantially from the cost information in the record.” Senator Schodorf pointed out that the decision also states, “The Board makes no argument as to the weighting’s relationship to actual costs; it simply repeats that it regards the change in the weighting as a good faith effort toward compliance.”

Senator Apple moved to leave the at-risk weighting at the current level of 0.395, seconded by Senator Pine. The motion carried.

Senator Schodorf opened committee discussion on capital outlay equalization.

Senator Lee moved to equalize at eight mills, seconded by Senator Teichman. The motion carried.

Senator Schodorf reminded the Committee that the Legislative Post Auditor requested that the Legislature clarify which approach (input-based or outcomes-based ) was to be used in the cost analysis study to be presented to the 2006 Legislature. She noted that one part of current legislation includes all of the mandates, policies, and regulations that apply to accredited schools. She commented, “The question is, does the Legislature want the cost analysis study, as the Court suggested, to focus on the outcomes or not. In addition,

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the Legislature must decide if it is necessary to put in the date.” She noted that the Republican plan had wording about an outcome approach. Ms. Kiernan confirmed that the Republican plan pulled in references to statutes the Court referenced. She noted that it references the State Board of Education’s constitutional power section and also anything the State Board has set by standard that is not in a rule or regulation. She also noted that the plan as currently drafted would pick up No Child Left Behind. Senator Schodorf suggested that the Committee not make a decision until the next meeting when copies of the plan would be distributed by Ms. Kiernan.

The meeting was adjourned at 5:05 p.m.

The next meeting is scheduled for June 21, 2005, at 12:00 p.m.