

MINUTES OF THE SELECT COMMITTEE ON SCHOOL FINANCE

The meeting was called to order by Chairman Kathe Decker at 12:15 PM on March 14, 2005 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research  
Theresa Kiernan, Office of the Revisor of Statutes  
Art Griggs, Office of the Revisor of Statutes  
Ann Deitcher, Committee Secretary

Conferees appearing before the committee:

Kathy Cook, Exec. Dir., Kansas Families United in Public Ed  
Kevin Graham, Office of the Attorney General

Copies of the Select Committee minutes for February 3, 4, 9, 11, 16, 18, 21 and 22 were distributed for approval by the Committee.

**SB 181** - An act concerning civil procedure; relating to actions filed in violation of Article 6 of the Kansas constitution.

Appearing before the Committee as an opponent to **SB 181** was Kathy Cook. (Attachment 1).

Kevin Graham spoke to the Committee as a proponent of **SB 181**. (Attachment 2).

The hearing on **SB 181** was closed.

Representative O'Neal offered a proposed amendment to **SB 181**. (Attachment 3).

A motion was made by Representative O'Neal and seconded by Representative Hayzlett to pass this amendment to **SB 181**. The motion passed on a voice vote.

Representatives Crow, Larkin and Winn requested to be recorded as no votes.

Representative O'Neal made the motion that was seconded by representative DeCastro that **SB 181** be passed favorably as amended.

A motion was made by Representative Larkin and seconded by Representative Crow that **SB 181** be tabled. The motion failed on a voice vote.

The motion to move **SB 181** as amended carried on a voice vote.

Representatives Crow, Larkin and Winn requested to be recorded as no votes.

The meeting was adjourned at 12:55 p.m. No future meetings are scheduled at this time.

**Testimony to Select Committee on School Finance**  
**RE: SB181**

March 14, 2005

Kathy Cook, Executive Director (913) 825-0099  
Kansas Families United for Public Education

I would like to thank the committee for the opportunity to address you this afternoon.

Our organization opposes Senate Bill 181 because it unfairly creates yet another hoop for the students of Kansas to jump through in order to receive what is due them. What they are due is an adequately and equitably funded public education.

This bill is not about judicial scrutiny, because we all know that exists by virtue of the Court of Appeals and the Supreme Court. This bill is not about fairness, because it singles out one article of the Constitution, Article 6 which deals with the education that the children of Kansas are entitled to. This bill is not about insuring students and parents' rights under the Constitution, because it only impedes the process.

As the legislature is searching for funds to meet its obligation under Article 6 of the Constitution it seems that they would be looking for ways to save money rather than spend it. This bill carries a fiscal note that can't pinpoint a cost. We do know however that we will be looking at an increase in judiciary spending; since three judges will obviously be more expensive than one. Trials under Article 6 have notoriously been lengthy thereby increasing the cost even more.

You ARE under order from the Supreme Court to adequately fund K-12 education. As Representative Shari Weber, was recently quoted in the Topeka Capitol Journal "sometimes we have to choose". We would encourage you to choose to spend our tax dollars on education rather than creating an unnecessary expense with Senate Bill 181.

We believe that the Supreme Court's ruling was fair and in the best interest of the students all across Kansas. However, even if you don't agree with their decision, you should not create new laws that obstruct the rights of citizens. Rather than disrespecting the Supreme Court by referring to them as "the people across the street in black nightgowns" as some members of the legislature have done, we urge you to look at their ruling as an opportunity to improve the lives of students all across Kansas.

Our judicial system in Kansas has operated efficiently under the current system and we respectfully request that you oppose Senate Bill 181 and get back to the business at hand; adequately and equitably funding our schools.

Select Comm. on School Finance  
Date 3-14-05  
Attachment # 1



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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March 14, 2005

HOUSE SELECT COMMITTEE ON SCHOOL FINANCE

Testimony in Support of  
Senate Bill No. 181

by

Kevin A. Graham  
Office of the Attorney General

Dear Chairman O'Neal and Members of the Committee:

Thank you for allowing me to submit written testimony on behalf of Attorney General Phill Kline in support of SB 181 - a bill designed to provide for more thorough review and thoughtful judicial contemplation of cases alleging a violation of the Education Article (Article 6) of the Kansas Constitution. Attorney General Kline asked me to convey his regret at not being able to attend your hearing on SB 181 and testify in person; Attorney General is attending the annual conference of the National Association of Attorney's General in Washington, D.C. this week and that commitment made it impossible for him to be with you today.

SB 181 would require the Chief Justice of the Kansas Supreme Court to appoint a panel of three judges of the district court to preside over any lawsuit brought by a party alleging a violation of Article 6 of the Kansas Constitution. The three judge panel would issue a decision on the case, and the decision of the three judge panel would be subject to direct appeal to the Kansas Supreme Court under KSA 60-2012(b). Venue for the cases at the district court level would be in a county designated by the three judge panel, and any appeal of the decision of the panel would be required to be filed within 30 days of the date the panel's decision is filed. The anticipated positive impacts of proposed change in law would be to aid in both the thoroughness and objectivity in the handling of the case at the district court level, while also expediting the appeal process of these important cases should an appeal be taken.

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Attachment # 2-1

On behalf of Attorney General Phill Kline, I encourage the Committee to support SB 181, and to recommend the bill favorably for passage.

Respectfully submitted,

OFFICE OF THE ATTORNEY GENERAL  
PHILL KLINE

A handwritten signature in black ink, appearing to read "Kevin A. Graham". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Kevin A. Graham  
Assistant Attorney General  
Director of Governmental Affairs

**SB 181**  
Proposed Amendments

1. In Sec. 1, change procedure for appointment of three-judge panel to provide that chief justice will notify chief judge of the Court of Appeals, who will then appoint the three judges. Also provide that the chief judge shall appoint one of the three to be the presiding judge. (With Supreme Court handling any appeal, appointment of panel should be by a different court)
2. In Sec. 2, strike reference to "the parties' attorneys" and insert "witnesses", so that venue is based on location and convenience of the parties and witnesses.
3. Add a provision that establishes the burden of proof in such actions:
  - a. In actions under this section, the burden shall be on the Plaintiff(s) to prove that state funds appropriated and allocated through the formula were not sufficient to fund the cost of providing the subjects or areas of instruction required by state law, including reasonable and necessary related instruction, administration, support staff, supplies, equipment and building costs.
  - b. In determining whether the Plaintiffs have met their burden of proof, the court panel shall not be bound by the manner in which state funds were allocated in fact in the subject district, but shall make a determination based on an analysis of adequacy had state funds been utilized first to fund the reasonable and necessary costs of providing the required subjects or areas of instruction and related services set forth in 3a.

**Select Comm. on School Finance**  
Date 3-14-05  
Attachment # 3