

## MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 1:34 p.m. on January 22, 2004 in Room 123-S of the Capitol.

All members were present:

Committee staff present:

Carolyn Rampey, Legislative Research  
Kathie Sparks, Legislative Research  
Theresa Hollon, Legislative Research  
Theresa Kiernan, Office of the Revisor of Statutes  
Judy Steinlicht, Committee Secretary

Conferees appearing before the committee:

Dale Dennis, Deputy Commissioner, State Board of Education  
Dan Biles, Attorney, State Board of Education

Others attending:

See Attached List

### **Introduction of Bills**

Senator Umbarger, on behalf of Senator Kerr, requested introduction of a bill concerning sales tax; exempting certain sales by schools and school-sponsored groups and organizations. Motion to introduce by Senator Vratil. Second by Senator Buntin. Motion carried.

Dale Dennis, Deputy Commissioner, State Board of Education, requested introduction of two bills, one concerning alternative schools changing the official count date for students from September 20 to the week of September 20; and one concerning schools; virtual courses or schools; out-of-state pupils not counted for enrollment purposes. Motion to introduce by Senator Teichman. Second by Senator Lee. Motion carried. (Attachment 1)

### **Summary of Judge Bullock's decision on funding education**

Dan Biles, Attorney, State Board of Education introduced Ken Wertz who represented the State of Kansas; Deputy Attorney General David Davies who represented the State of Kansas; and Scott Hesse, Assistant Attorney General representing the Governor. Mr. Biles gave the Committee a summary of Judge Bullock's decision on funding education.

Mr. Biles advised the Committee that Judge Bullock found in his opinion that the state funding structure violates three areas of the constitution; 1) Section 1 of the Kansas Bill of Rights (state equal protection); 2) the Fourteenth Amendment of United States Constitution; and 3) Section 6(b) of the Kansas Constitution (suitable provision for finance).

Mr. Biles told the Committee that the order was not intended by the court to be appealable at this time and entitled its ruling as a "preliminary interim order." The judge did not impose a remedy, but gave the Governor and the Legislature until July 1, 2004 to decide if they want to address the issues in the court's decision. The court denied a request by the State Board of Education to permit an immediate, "interlocutory" appeal of its "Preliminary Interim Order." If changes are made this legislative session to the school funding structure, the district court indicated it would review the changes to decide if the new laws are in compliance. If they are in compliance, the case would be dismissed. If not, the district court could impose a remedy. Potential remedies could be to halt the distribution of moneys to public schools or the court could design its own school finance system.

Mr. Biles explained the following points of Judge Bullock's opinion; the judicial definition of a "suitable" education; differences in funding based on evidence of actual costs; overall funding level is inadequate; the achievement gap demonstrates the legislature is violating its duty to provide a suitable education to every child in Kansas; state dominance over local education; special education funding is

## CONTINUATION SHEET

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unconstitutional; capital outlay is unconstitutional; sales tax revenue is suspect; and small school district consolidation not within the court's jurisdiction.

Mr. Biles advised that in summary, the district court opinion says the current funding system in Kansas stands in "blatant violation" of Article 6 of the Kansas Constitution and the equal protection clauses of both the Kansas and United States constitutions because 1) it fails to equitably distribute resources among children who are equally entitled by the Constitution to a suitable education; 2) it fails to provide adequate total resources to provide all Kansas children with a suitable education; 3) Dramatically and adversely impacts the learning and educational performance of the most vulnerable and/or protected Kansas children. (Attachment 2)

Mr. Biles answered questions from Committee members pointing out that it is the decision of the Governor and the Legislature whether to act now or wait for the Supreme Court decision. Mr. Biles stated that the federal court has put off discussing the second law suit until this summer and at the federal level, there is a strong desire that this be a state issue. Mr. Biles explained the history of how low weighting was established and that it could again be brought up at the federal level.

Ken Wertz, attorney from OP, KS who represented the state of Kansas, interjected that he felt the state provided very strong evidence. He invited everyone to read the deposition, reports and trial testimony. He feels they have a very strong record of defending the state of Kansas.

The meeting was adjourned at 2:30. The next meeting is scheduled January 26, 2004.