

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

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Testimony before the
Senate Committee on Education
on
SB 131 – Capital Outlay Fund

by
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Mr. Chair, Members of the Committee:

Thank you for the opportunity to comment on **SB 131**. KASB appears as neutral on the bill, not because of what is in the bill, but because of what is missing.

As we have previously discussed with this committee, KASB members have adopted a plan for making Kansas the top performing state in the nation in educational achievement. *First in Education, the Kansas Way* has three core principles: raising standards for everyone in the education system, providing suitable finance for continuing educational improvement in all districts, and strengthening responsiveness to parents and community needs under locally elected boards and school leadership.

One of strategies under the principle of constitutionally suitable finance reads: “We support continued state equalization aid for capital improvement bonds and restoration of capital outlay aid.” This position has become even more important since the three-judge district court panel in the *Gannon* school finance case ruled the capital outlay levy unconstitutional unless state equalization is restored.

Capital outlay funds are available to school districts for the costs of facilities and equipment. Since state capital outlay aid was eliminated in 2009, the only revenue source for school districts has been the capital outlay mill levy. Because of significant differences in local property wealth, the amount of revenue that can be raised per pupil differs dramatically. This means higher wealth districts can access significantly more revenue per pupil to provide for buildings and equipment, while lower wealth districts may have to transfer funding away from non-capital costs in their general fund and local option budget to cover these capital costs.

Kansas courts have consistently held that capital costs, just like regular operating costs, are part of the state’s duty to provide equal educational opportunities to all students. The quality of a child’s educational program cannot be dependent upon the local tax revenues available. That is why the capital outlay state program was added in the first place, after the *Montoy* decision. The capital outlay portion of the *Gannon* decision was not an “adequacy” ruling, based on the amount of money provided by the Legislature. Rather, it was an “equity” decision under the doctrine of equal protection of all students.

Although KASB’s legal staff is unsure whether this bill significantly changes the legal uses of capital outlay revenues, we could support a broader use of these funds ONLY if this bill is tied to an equalization system that allows all districts to benefit. We would oppose the bill if it is NOT tied to equalization.

Senate Education Committee

Date 2-18-13

Attachment 9