

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 12:20 p.m. on February 17, 2005, in Room 123-S of the Capitol.

Committee members absent:

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

Conferees appearing before the committee: None

Continued Committee discussion on:

SB 244—Schools; establishing The 2010 Commission

SB 245—School districts; audits by Legislative Post Audit

SB 246—School finance; three-year plan

Senator Schodorf informed the Committee that the meeting would begin with the distribution of additional information relevant to school finance which some members wanted to share.

Senator Lee noted that she agreed with an individual from a small school district who commented to her as he was leaving the February 16 meeting, “You know, you keep talking about the equity and the adequacy of funding. What you should be talking about is the equity and adequacy of education.” She reminded the Committee that, at the February 16 meeting, she requested that school district conferees compile a list of their school district’s curriculum and give their opinion as to if it met the definition of a suitable education. She reported that she had not yet received that information. She commented that a list of the curriculum guides in all enrollment categories for schools across the state would be helpful as the Committee discussed equity of education.

Senator Apple discussed a chart which he distributed at the February 16 meeting concerning potential revenue from the transfer of the local option budget to the General Fund. He commented that the information related to comments he made about rich districts vs. poor districts in relation to assessed valuation per student. He observed, “We’ve gone from a local option budget that was designed for extras and enhancements that was originally supposed to sunset that has changed from year to year to being highly relied upon for base. If you were a district that maxed out your LOB four or five years ago, you’ve seen increased enrollment, but you didn’t see an increase in the funds for No Child Left Behind.” He went on to say, “People get on school boards to make things better for their children and provide additional educational opportunities, and a lot of those board members are finding, instead of making things better, they are saying, what are we going to have to cut, what are we going to have to eliminate. Some districts have survived better. I don’t necessarily think it’s because they are more efficient. We need to spend our money wisely.” He commented that the question to consider was, “Do we want a fair tax policy and swing that over into the statewide mill levy and make it the state’s responsibility. I don’t think it’s practical to expect to do it this year, but if we did that, we would be looking at still levying ten mills and a quarter cent increase in sales and use tax and a 2.5% income surcharge. But that would level the playing field.” He called attention to the backup information he distributed on February 16 from the State Department of Education concerning the 2004 mill levies for all school districts, including the supplemental general fund, and briefly discussed the data. He concluded, “I think it’s good to know that, as we start increasing the local option budget, if we raise that 5% a year, in five years we’ll be at 50% LOB. And if we don’t address this, then our disparity is going to be from 6 to 60 mills across the state for our local option budget.”

Senator Lee distributed copies of a State Department of Education printout of data, in county order, concerning the 2004 FTE enrollment, the 2004-05 local option budget mill levy, and the 2004-05 LOB percent used. (Attachment 1) In addition, she distributed a Department printout of data concerning the 2004 FTE enrollment, the 2004 assessed valuation, and the assessed valuation per pupil in county order and low to high on enrollment and assessed valuation pupil. She explained that the assessed valuation per pupil simply indicates the ability of a local district to raise education dollars because of its valuation per pupil. (Attachment 2)

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Senator Allen reminded the Committee that some of the conferees requested that the Committee consider a provision for extraordinary declining enrollment. She distributed copies of **HB 2375**, noting that it addressed this subject. She explained that a proposed amendment to the bill would allow a school district to seek approval from the Board of Tax Appeals to raise a separate property tax assessment to pay costs not funded due to lost revenue from “extraordinary enrollment decline.” She explained how the amended bill is like current law for fast growing districts and how it is different from current law for fast growing districts. She noted that it was estimated that at least 130 school districts would qualify for this provision. (Attachment 3)

In response, Senator Lee expressed her concern that, in some school districts, the relief would cost local taxpayers more money because of their lack of valuation. She reiterated that the focus of the Committee should be on an equitable education for children across the state regardless of where their parents decided to live or whether they are in a wealthy community or a poor community.

Senator Vratil expressed support for the proposal, noting that it responded to a complaint from some legislators over the years concerning an authority which applied only to facilities in three or five school districts in the state with rapid growth. He noted that the criticism was, “We shouldn’t adopt something that benefits those three or five school districts when it doesn’t benefit the rest of the school districts in the state.” He noted that the proposal would benefit the rest of the districts because two-thirds of those districts are experiencing declining enrollments, and this proposal would allow those districts who are experiencing declining enrollment to make up for the reduction in their state aid. He commented, “This is an opportunity for many of our school districts, if they choose to avail themselves of it. There’s nothing mandatory about it. It’s their choice. The argument can be made that, if we can’t provide an equal amount of money for every student in the state, then we shouldn’t provide any additional money for any student. I think this is a fallacious argument. We ought to be trying to do the best we can for as many students in Kansas as we can. The fact that the Legislature hasn’t adequately funded K-12 education in past years is not in my mind a good reason to reduce everybody to the lowest common denominator and not provide the opportunity for local school districts to help their students if they want to.”

Senator Teichman asked if the proposed amendment would replace the request for a 5% increase in the LOB in **SB 246**. Senator Allen clarified that it was not a replacement request.

Senator Apple commented that it could be assumed that the proposal was directed to help large school districts, such as Shawnee Mission, which have seen extraordinary decreases in student numbers. He said, “The fact is, they can pay for that without too much increase in their mill levy that may not be available to other districts across the state. While we can do something that would help one district, maybe I could offer something that would help some other school districts, and perhaps we could do both.” He went on to say, “On some of the poorer districts, we could cap their local contribution at 19 mills, and I’m just talking about the first 25% of the LOB, and the state would pick up additional revenue above 19 mills. If we did it this year, it would cost the state \$4,062,747. It’s not a tremendous price tag, but it does bring some equity to our tax policy across the state.” He distributed copies of a Department of Education printout providing the 2004-05 local option budget levy, 2004-05 LOB mill rate less 19 mills, 2004 assessed valuation, and LOB levy above 19 mills. (Attachment 4)

Senator Ostmeyer commented “We don’t want to lose the fact that Johnson County has the money and students.” He noted that his district does not have a large number of students, and it would cost his district more. He said, “We have small schools out there, and there comes a day when we’re going to have to keep them open. We cannot close schools down after a time.”

Senator Allen distributed copies of a printout prepared by the Department of Education which provided the effects of the proposed school finance plan. She explained that the printout included the data on the original Senate plan with an additional column added for the benefit “per pupil” with an increase in the correlation weighting from 1,725 to 1,675. (Attachment 5)

Senator Schodorf commented that, at the February 16 meeting, members discussed their frustration with the formula and that full time equivalent (FTE) was considered with regard to the inequity in the formula. Senator Lee commented, “What we saw for the most part yesterday was testimony, not all of it, but a lot of

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it was testimony from school districts that can afford to have lobbyists. Unfortunately, only one of my districts can afford to have a lobbyist. What we heard from yesterday was large schools. We did not hear from small schools yesterday. And, frankly, if we were to bring those small schools in, you would hear the opposite that you heard yesterday. We heard from two groups, mid-size and large schools. As in everything, whether or not the formula is equitable is in the eye of the beholder or, in this case, the eye of the receiver. If you want to talk about the equity of education, you've got to ask for the curriculum guides from all the schools. You will see that the very small schools are able to provide perhaps 25 or 35 as opposed to 400 or 500 classes."

Senator Apple distributed copies of a worksheet relating to the five-year school finance plan he proposed on February 16. ([Attachment 6](#)) He explained that the major change was that the at-risk weighting was put in over five years instead of over three years. The bi-lingual weighting stayed the same. Special education excess cost was modified to 84% instead of 85% the first year. The LOB stays the same. The new facilities weighting was eliminated and funded like the LOB. He noted, "I think it's a good place to start a conversation." Following brief comments by committee members, he clarified that his plan would include vocational education weighting. He added, "I think it would be a good plan if every year we would develop a five-year plan and the direction that we're heading. So I see it as a living document."

Senator Vratil called the Committee's attention to a Department of Education printout regarding the total expenditures for the 2003-04 school year from low to high, which was distributed by a conferee (Bob Vancrum) at the February 16 meeting. He noted that it showed that the lowest spending school in the state is the Lansing School District, spending about \$6,255 per pupil, and the highest spending district is Ness Tre La Go, spending about \$16,736 per pupil. He noted, "As the conferee remarked yesterday, you'll see that all six Johnson County school districts are spending for their per pupil bases in the bottom 15% of the school districts in the state. I started looking at that and comparing it to the plan that the Chairman introduced a week ago to see what that plan does to the disparity in spending across the state. I think what I've determined is that the proposed plan would actually increase disparity in spending." At this point, he distributed a list of school districts by county with columns headed "current plan" and "FTE distribution." ([Attachment 7](#)) He noted, "The smallest school districts get the greatest amount of new money from the Senate plan. As a school district increases in size, it gets less money from this proposed plan. That is, until you get the very large, urban district, and then generally speaking, they tend to receive more money. And I'm looking specifically at Wichita. First of all, I need to tell you that the average per student increase under this plan is \$239. That's not reflected on this sheet of paper, but you need to know that. Under this plan, Wichita would get \$302, Kansas City would get \$298, Topeka gets \$306, Garden City gets \$339, Dodge City gets \$406. And that's not unexpected under the plan because we have increased the weighting for at-risk, and we have increased the weighting for bilingual. So those districts who have large numbers of at-risk and bilingual students I would expect to get more money. But what's not apparent from the plan, and at least one of our colleagues has described it as the 'hidden increase,' and that is that, when you add money to the base, you automatically increase the at-risk monies that school districts spend. And when you add money to the base, you automatically increase the bilingual funding for students that school districts get. And when you add money to the base, you automatically increase the low enrollment funding that school districts get. And that's why you see this wide range of per pupil increases from about, I think Senator Allen informed me yesterday, \$105 per student in the lowest districts to over \$700 in the highest districts. What that plan would do is increase the disparity in spending for some of the school districts in Kansas. And I think the Supreme Court is not going to look very favorably upon a plan that actually increases disparity in spending. They've already described some of our formula weighting factors as distorted. So, I tried to come up with a way that we could minimize that increase in disparate spending, and let Dale (Dennis) do a run." At this point, Senator Vratil distributed copies of the printout which was prepared by Dale Dennis, Deputy Commissioner, State Department of Revenue. ([Attachment 8](#)) He explained, "This proposal takes the weighting factors out of play because, instead of distributing \$87.2 million on the base and having a given increase as a result of that for low enrollment and for at-risk and bilingual, it distributes \$88 million on a full time equivalent student basis. What that results in is that there's no multiplier effect. You don't get a given increase for low enrollment or at-risk or bilingual. What you see is what you get. This would result in about a \$200 increase for each full time equivalent student. On the far right hand column of the sheet of paper I passed out a few minutes ago, you will see the results of this proposal. It ranges from a high of \$361, that's Ness Tre La Go, to a low of about \$114 in Ell-Saline. But it does tend to compact the range of per student increases and

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prevent the expansion of disparate spending that the Senate plan would accomplish, which I think is a better way to distribute the money, at least until we can get further information and further studies on the aspects of our formula and a rational cost analysis to determine what school districts really need.”

Senator Teichman commented, “When the funding plan was originally formed in 1992, the reason they put weightings in was because of the disparity of the cost between low enrollment schools and high enrollment schools. And at that time, I believe that was found to be an equitable way of doing it because of the cost, and I don’t know, if we were to do this kind of thing, what it would do to the inequity. I mean, it’s very obvious that it costs more to educate a student in a school district that has 300 students than it does to educate a student in a 45,000 enrollment school district. What I think that this would do is create more of a disparity on costs than it would to be more equitable. Even though there is a light spread, I think there are good reasons why that spread is there. I just have some concerns about putting money into an FTE.”

Senator Ostmeyer commented, “I just pulled up Gove County, my schools. Basically we would get \$169, \$301, and \$227. We’ve got probably 600 enrollment in Gove County. I look at Johnson County, and it would get \$186, \$199, and \$199 with thousands of students. I understand, John, you’ve got a luxury we don’t have, and I understand you want more money. But your teacher comes a lot cheaper in a full classroom than I have when I have two grades in one classroom. I know we have to make poor choices maybe, but we get by, but it’s going to take more money out there. To me, if we’re going to lean the formula to fit the higher enrollments, then it will just shut us down a little quicker. We can only shut down so far, and we’ve done it already.”

Senator Steineger distributed copies of his “Super Sized Plan for K-12 Finance.” (Attachment 9) He said, “This plan has goals and revenue. It provides the needs for districts and addresses the most egregious findings of the Court. It attains the funding level to comply with the recent 55 district survey. It avoids creating additional bureaucracy. It is evidence based, and it gives our friends in Johnson County the ability to raise more money if they want to. Quite frankly, it was patterned after the Senate Republican Leadership Plan. In the first year of this plan, it implements at-risk student to .25, and the first year of the plan, it implements bilingual to .40, and the first year special ed to .95. It keeps vocational weighting as it has been per Senator Ostmeyer’s suggestion. It does include an additional component. This phases in all day kindergarten in a similar method the Governor proposed last year, which you phase in over three years based on percentage of at-risk kids in a grade school. On the lower half of this sheet you will see the proposed revenues: sales tax, income tax, gaming, and the optional feature. The sales and income tax are modeled somewhat similar to what was passed last year that was known as the Kassebaum Neighbor’s Plan. I believe it was slightly bigger. This does require some gaming revenues. I tried to very conservatively estimate how much that revenue would be. On the bottom is the unique feature I’ll call the optional feature. This is a local option earnings tax. Personally, as Chris, I think, if local people want to spend more money on their schools, they ought to be able to do it. And, obviously, in some places in our state the local voters voted to raise their LOB. In other places in the state, it failed. And I just think that there ought to be some local control where local folks can raise taxes if they want to. Second, this earnings tax idea is a combination of my idea and the one proposed last year by Representative Eric Carter. Eric Carter wanted a LOB increase that would be equalized, and I merged our two ideas. What this does is, a local city or county may at their choosing put an earnings tax on the ballot. If the earnings tax passes, the local community gets to keep half the money right off the bat. The other half of the money is sent to Topeka for equalization purposes, to address Janis Lee’s concerns about the equalization problems of local taxes. Just to show you, I had the Department of Revenue run figures, actually these figures are from 2002, for the five big counties—Wyandotte, Johnson, Sedgwick, Shawnee, Douglas. Each one of those counties with an enacted 1% earnings tax are sharing \$250 million. Under this formula, I’ll call it the Eric Carter Formula, half of that money would be kept in any community that passes the earning tax. The other half goes back to Topeka for purposes of equalization. So any county in the state could have an earnings tax if they want to. Frankly, we all know what the school finance formula does to dollars. Quite frankly, Johnson County pays in more than they get, and places like Wyandotte County pay in less and get more. We all know the ramifications of that. But, I’ve tried to come up with a way to let local folks raise taxes if they want to for the schools. Essentially, it’s the plan we saw two weeks ago, but it’s super sized. It’s got more revenue in it.”

Senator Schodorf commented, “We need to get a bill on the floor for next week to begin discussion. You

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know that when there is a bill on the floor for debate that a lot of times it changes. The clock is ticking. April 12th is around the corner. If we don't get something now, I don't know when we will. To get it through both houses, to get it through conference, we need to get something on the floor today—to get it out of here and to have it debated next week. The other thing that I want to say is that this committee, we can see what happens around the state because we are looking at our own districts, and I understand small sized districts, large sized districts, seemingly rich and seemingly poor large districts, medium sized districts. But, right now, we need to try to look at the state as a whole, try to come up with the best plan. I support small sized districts, large sized, education in general. And, we just don't know what to expect. So I would like us to do the best job we can to get a bill out and then see where it goes. If you have the Senate plan, that is the bill. I want you to look at that. I think we all know what the numbers are. Begin looking at what changes you would like to make. As of right now, this bill calls for current resources for the first year, and at this time, we are not offering a plan for the second and third years.”

Senator Lee commented that she could not, in good faith, be a part of a bill that has no funding after the first year. Senator Schodorf responded, “I see us trying to pass year two and three in this session. There are different things that are coming up soon that we'll have more information, about gaming for one. That bill will be coming up. And then, when we know what the situation is, I plan to introduce a year two and three revenue.”

Senator Teichman commented that conferees representing both rural areas and areas with large schools emphasized the importance of vocational education in their testimony before the Committee.

Senator Teichman moved that **SB 246** be amended by restoring full funding (.5) for vocational education, seconded by Senator Steineger.

Senator Schodorf distributed a copies of the proposed Senate school finance plan with vocational education weighting reduced to .33. (Attachment 10)

Senator Ostmeyer expressed his support for the return of full funding for vocational education. He noted that he had received e-mails from many persons who attended small and large schools and felt that their school's vocational program had a very positive effect on their life. Noting that vocational education was especially important in his area in western Kansas, he stated that he could not support any plan which did not fund vocational education. In response, Senator Schodorf pointed out that, as shown in her handout, “I included two-thirds of that and \$200 FTE on the base. Instead of a .5 weighting, I included a .33 weighting, and that took \$10 million off.”

In response to Senator Schodorf, Senator Vratil stated, “I, like you, am concerned about exceeding our budget, and I would rather start a little bit lower on restoring the vocational education weighting and then, when we get towards the end of the process, if we still got some money to spend, I would very much favor restoring vocational education to the full 50%. But I think we need to start a little smaller and see where we end up.”

Senator Vratil offered a substitution motion to amend **SB 246** by restoring the vocational education weighting to .33, seconded by Senator Allen.

Senator Lee commented, “We all know, at least on this Committee knows, that if we cut that back to .33, it will never get that back up to half. That's just simple logic. Whether or not anything that comes out of this committee is going to pass is very questionable at this point, but certainly, if we cut this back, we're not going to put the rest of that money back in. So, I oppose this substitute motion.”

Senator Teichman commented, “We're looking at three years, and because we increase something in the first year does not mean that we not be looking at something else in the second year. If we were to increase the vocational monies this year, that does leave us the ability to look at different fundings for next year. I agree with Senator Lee that if you lower it down, it will never go back up. We already have one promise that has been made that says we will lower 50 students for every \$100 we increase in the base, and that was kind of an oral agreement, and I'm afraid this is an oral agreement. I do think we need to be looking at the whole plan, the three years we're talking about, and consider the fact that if one of us doesn't get something this year,

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maybe can get it next year.”

Senator Ostmeyer commented that it was his hope that the Committee would fully fund vocational education. He went on to say, “The larger schools have so many opportunities. A small school has one opportunity. We have one opportunity for a handful of kids. We need to have that for those out there because some of those kids stay on a farm, they stay in a business, they stay in the city, they stay in the county. They’re what keeps your infrastructure running. And if we can help that one child or send him to a vo-tech school – if you look at the opportunities you have in Shawnee Mission, I can tell you, you’ve got a hundred fold opportunities over what our kids have. We’re not asking for much money. When you look at it, it’s \$15,000 in Grinnell. But it’s a lot of money to that community because some of those kids stay there, and it’s something we need to stay with.”

Senator Steineger commented, “The bigger picture question is I guess, to me, the Court requirement is going to take more money. So why are we trying to live within our budget now? That’s my first question. The second is, if those of us who desire to spend more money on schools, or invest more money in schools, it’s going to take a tax hike. It’s going to take 21 votes in the Senate, 63 votes in the House, and that’s how I can handle it. So, to me, trying to live within the budget now means, when are we going to raise enough money to meet the Supreme Court requirement? So I support full weight for vocational ed.”

Senator Apple commented, “I think it’s important that we come out of this committee with as much support as we can. I don’t want this debate to be that we either do for western Kansas or Johnson County. I think we can do for both. I want us to do as much as we can for our friends in Johnson County and do as much for our friends that are in western Kansas. I think we owe that to them. I think the only thing that we talk about cutting is vocational. I’d like to see us put it back to where at least it is now. I think that if we look at modest increases in at-risk and modest increases in bilingual the same and go to 84% next year and then stay at 85% on special ed, I think we can accomplish a lot of things. It may not be as much as all of want, but I think it’s also important to remember while we are in the process that we’ve got to come out of here with something that can go to the floor. And it’s going to be amended to death, and then we still have to go over and meet with the House. Then we still have to come back and look at sources of funding and try to put it together. So, I just want this to have a nice framework that’s functional where nobody is hurt and we can all move forward together.”

Senator Vratil agreed that the plan should be viewed as what is best for school districts across the state, whether they are large or small, poor or rich. He commented, “If we persist in looking at this on a parochial basis, i.e., how it affects my school district and I don’t care about anybody else’s school districts, we’re going to be hopelessly deadlocked. And we’re never going to get anywhere. The only we’re going to come up with a majority of the Senate to support this and the majority of the House to support it is for everybody to give a little bit and compromise and focus on the state as a whole.” Senator Schordorf recalled that, last year, legislators were unable to come up with a viable plan. She commented, “I absolutely agree that we’ve got to look at the big picture too. But what has happened? Nothing. And if we fall apart and fight among ourselves, then schools are going to get no increases, and legislators will lose control.”

Senator McGinn said, “In the spirit of trying to make sure we address the problem in the lawsuit and adequately try to make sure every district in the state is taken care of somehow, I thought Senator Vratil’s concept of FTEs was interesting. And the reason I think this is interesting is because we really are trying to look at at-risk and bilingual weighting. It seems to be a severe problem. But also what I have heard today is how much vocational education is important to the rural areas. I do hope that we come out with a plan. I think it is important to get something on the floor so we have something to debate next week. To wrap up my comments, I have an interest in this FTE concept because it does hit at the heart of the areas that have some of the key problems that were indicated in the lawsuit. But the other thing I’m hearing today too is how important vocational education is to a rural community. So I guess I would submit us taking a look at this plan and adding vocation back to it. In that way, the small schools get something that’s very important to their areas, and it also addresses some of the areas of the larger school districts that have challenges.”

Senator Schodorf reminded the Committee that there was a substitute motion on the floor and asked if there was any other discussion. Senator Vratil responded, “I would agree to withdraw my substitute motion if the

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maker of the original motion would withdraw hers and allow Senator McGinn to make her proposal.” Senator Schodorf commented, “In the spirit of compromise, we need to get a good plan out that’s good for education.” Senator Teichman confirmed that Senator McGinn’s proposal referred to Senator Vratil’s proposal to increase the FTE by \$200 with the addition of funding for vocational education. She stated. “I would like to say then that I think that my proposal does address all children across the State of Kansas. It does address students in small schools. It does address students in large schools. I think it is one of the most equitable things that we have to look at as far as getting money to the students. Not all our students are going to college. A lot of our students are going to vo-tech schools. A lot of our students are going to need the ability of what these classes offer them to survive in our society. Therefore, I will not withdraw my motion.”

Senator Vratil withdrew his substitute motion.

Senator Teichman responded to Senator McGinn’s inquiry as to why she objected to her proposal. She stated, “The concern that I have with the proposal that puts it onto FTE is this proposal will help those school districts that have a larger amount of students. It will be detrimental to those school districts who have lesser because it is not put through the weighting system. It does not get the low enrollment weighting. It does not get the correlation weighting. The monies that were in there for the other programs, you’re going to be taking that money away and only giving them the money that is offered in this. Actually, this is a double whammy. I just think you are looking at a funding system that is going to be detrimental to smaller schools. If in fact, we are trying to help all schools and all children, that would be detrimental.”

Senator Lee commented, “We started out early on in this committee talking about what the Court had indicated in terms of us finding actual costs. And so went to the Department of Education, and we had an actual cost study done for us. Now, a lot of us at this point would like to say that that’s not a credible study. I, quite frankly, believe that it is a credible study. And it will be part of the record. And it will be examined by the Court. That study clearly shows that there was a relationship between the cost per pupil and the size of the school. That was not a fixed study because the school districts that responded to that had no idea what the other school districts were going to say. That’s one of the beauties I find in this whole study is that schools that had 45,000 and 22,000 had not a clue as to what schools that had 300 or 500 or 1,200 were going to say. You see on this chart that, actually, the school that 45,000 and the school that had 22,000 gave the same answer. That clearly shows that there is a greater cost to the smaller the school district. Interestingly enough, the study showed exactly the same thing in bilingual. It said, regardless of the size of the school, if you had a larger concentration of students, it was less expensive. If you had a smaller concentration, it was more expensive, regardless of whether it was a huge school or a small school. We clearly know from that study, we know from Augenblick and Myers, and I quote Augenblick and Myers, ‘The foundation level should be adjusted in recognition of the higher cost associated with the operation of moderate size and small school districts as well as the need of students in special education programs, at-risk students, etc.’ Whenever you begin to put dollars into a formula, FTE and not looking at the size of the school, you begin to make it disequalizing, according to Augenblick and Meyer and according to the cost study that was done this year. And that’s why many of us oppose FTE. Once you begin to put dollars in FTE, then you begin to disequalize. It’s just simply very, very unfair. Again, let’s talk about the equity of education. And the equity of education comes with providing more dollars when your class sizes are smaller, not because of choice but because of necessity.”

In response, Senator Vratil said, “I think the record needs to be set straight. Senator Lee is correct. Augenblick and Myers did say that it costs more to educate students in small districts than large districts, but how much more is the question. What Senator Lee didn’t tell you is that Augenblick and Myers recommended a reduction in the low enrollment weighting because they said our current formula puts too much money in the low enrollment weighting. The Supreme Court said that low enrollment weighting is distorted. That’s the Supreme Court’s words, and I’ll quote it to you. They said, ‘This failure to do any cost analysis distorted the low enrollment, special education, vocational, bilingual education, and the at-risk student weighting factors.’ We are dealing in this plan with the distortion in special education, vocational, bilingual, and at-risk. We are not dealing with distortion of the enrollment weighting. In fact, we are expanding and further distorting the low enrollment weighting. And that’s why my proposal that puts money on the FTE would limit that further distortion of low enrollment weighting. Those are the Supreme Court’s rules.”

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Senator Lee responded, "We all understand, if we really understand the school finance formula, that correlation weighting is low enrollment weighting. It is an adjustment we make to low enrollment weighting. The interesting thing the most recent study that we have is that it shows almost exactly the same relationship between high spending schools and low spending schools as low enrollment in the formula does. It shows that the smallest schools need about twice as much as the larger schools. That's one of the more fascinating things that came out from this 55 school district actual cost study that was done. In fact, there is that relationship between the cost because of the economies of scale. And I don't know how we cannot have this discussion. Frankly, the only way we can is just do away with the all the weightings. Let's do an adjusted base, which is what the study would suggest, and simply go from an adjusted base."

Senator Schodorf responded, "The 2010 Commission would be looking at all weights and the formula and consolidation. There's a list of things, and this would be one area. I think it's very important to get some money into the school systems next year. And we are fighting amongst ourselves when we need to be trying to come up with a good equitable plan for all kids." She then asked Senator Teichman to repeat her motion, which remained on the floor. Senator Teichman said, "My motion was that we add back into the original Senate plan, **SB 246**, vocational weighting at full funding."

Senator Schodorf called for a vote on Senator Techiman's motion to amend **SB 246**. The motion carried.

At this point, Senator Vratil said, "I would be happy to give Senator McGinn the opportunity to make the motion if she wants to." Senator McGinn indicated that she needed a few more moments to contemplate his offer.

Once again, Senator Vratil explained his proposal. He said, "If you distributed \$88.5 million on an FTE basis, that would be \$200 per FTE student. By segregating that money and not running it through the General Fund, you do not increase the LOB authority, and you save the \$6.0 million of supplemental general state aid. The increase of at-risk weighting from .10% to .15%, that's \$28.0 million. Bilingual from .20% to .30%, that's \$5.4 million. Special education at 85%, that's \$17.7 million. LOB from 25% to 27%, that's \$10.0 million. We put back in \$29.1 million from elimination vocational education. The net of that would be about \$149.0 total cost, which is still within our budget."

Senator Apple commented, "I guess we have to plan with the formula the way it's always been or we go in a new direction. I think we're going to have to have some comparisons as to what that's actually going to do for each district with the changes that we've made. I think adding vo-tech back is a substantial change. I guess what I would like to hear from the committee — you know, if we modify the at-risk weighting down a little bit, the committee doesn't want to hear that. But I think, if we went past this and got onto some of the items in the formula, we could come back tomorrow and look at the runs in both directions." Senator Schodorf suggested that, instead, the Committee resume when the Session adjourned later in the day.

Senator Apple compared his five-year plan with the Senate Leadership Plan. He noted that, instead of at-risk weighting going from .1 to .15, his plan would go to .12, which would be a 20% increase in actual dollars. He noted that bilingual stays the same, special ed would move to 84% instead of 85%, and the LOB stays the same. He observed, "From a taxpayer's point of view, I think it's our job to make sure the resources are used as wisely as we can. And I think if we go to the five-year approach and get 20% a year for the first two years and 15% after that, we come out to exactly the same dollars, and so, I'm just thinking it would be more efficient and we would spend our money better."

Senator Vratill commented, "If you were to do what Senator Apple proposes, that would cost about \$11.6 million to go 12%, which would save you about \$16.0 million the first year. With respect to special education, by going to 84% instead of 85%, it would cost you about \$14.5 million and would save you a little over \$3.0 million. So, you could save \$19.0 million the first year with Senator Apple's proposal."

Senator Steineger said that he opposed the implementation of a smaller, slower plan. He noted that the cost analysis study of 55 school districts indicated that at-risk realistically costs 25% more than a standard education. Therefore, there is evidence which supports a higher rating. He noted that the courts explicitly stated that they wanted that problem addressed. In addition, he noted that going to a higher rating sooner is

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a way to get more money into the school sooner. He pointed out that previous testimony about school teacher's salaries in general and the specific areas of school teacher shortage indicated that special ed teachers are the most difficult to find and keep.

Senator Goodwin commented, "I think one of the biggest things the courts have mentioned that no one has really talked about, except Senator Vratil has a proposal that takes away going through the formula, but the Court said it's clear increased spending is going to be required, but because of the financing formula, it is not going to be constitutionally suitable." She quoted the Supreme Court's ruling as follows, "By contrast, the present financing formula increases disparities in funding, not based on a cost analysis, but rather on political and other factors not relevant to education." She went on to say, "When we're looking at this entire picture of what we are going to be adding money into, I think that's critical. The reason we had the lawsuit is because of the financing system. And I'm not hearing that coming in. We are fixing those weightings and things like that, but I do think that the biggest issue of any schools, and it's not just in one area of the state, is the disparity of financing. The disparity of the financing has got to be addressed."

Senator Pine moved to recommend the original Senate plan (SB 246) favorably for passage as amended, seconded by Senator Teichman.

Senator Pine stated, "I personally don't think I've got the solution to everything that needs to be done or is going to satisfy everybody sitting at this table or the people out in the audience, but I think it is, in my opinion, probably as good as it's going to get to get this started. And I think we need to get something done. I have no interest whatsoever in the courts deciding what we do in the future even though right now it's beginning to look more desirable. I don't think that's the way it's supposed to be, and I think this is our responsibility. I am sure that by the time it gets through the Senate floor, debated in the House, goes back to committee to discuss that it will probably change some. But I don't know how else to get it going, and I think we need to do something. By the way, even in my eastern area, my school size varies from 430 up to almost 10,000. So, I understand large and small, and it's hard to meet all of those needs."

Senator Steineger opposed Senator Pine's motion. He stated, "This is probably the most friendly group to try to help the schools. I think it's more important this group work a little longer if that's necessary to get a good plan, and I think a rush job is going to end up at some kind of compromise that a lot of people don't like. I'd rather have a good design come out of here that's got a better chance. I'd like to take a little more time now, then vote it out, and have a better chance of making it all the way through the process."

Senator Steineger offered a substitute motion to amend SB 246 by implementing the first year of the plan with at-risk funding at .25, bilingual weight at .40, and special education at .95 of excess costs, seconded by Senator Lee.

In support of his substitute motion, Senator Steineger said, "This is the most recent cost study to date for schools in the State of Kansas. This is it. It's not Augenblick and Myers; that's three years old. This is the most recent relevant information we have to base a sound, logical evidence-based decision on. Senator Goodwin pointed out the Court's ruling about the current formula and some of these weights. What I'm suggesting is to change the formula to make it better address the Court's concerns. So, that would be the second reason why my substitute motion is good; it's evidence based, and it specifically addresses what the courts explicitly stated in their opinion as the problem with the current formula. We've got to fix the current formula. There's no sense in voting out the same old thing. If we vote out the same old thing with the same old formula with just adding in voc. ed., that's a failure right off the bat. Again, I would emphasize to committee members, this is the most friendly group probably in the state Legislature for school finance. We have to get it as best as we can before send it out to the Senate floor."

Senator Teichman asked Senator Steineger what the approximate cost of his proposal would be. He responded, "It appears to me, according to these figures from Dale Dennis, at-risk weighting in the first year costs \$87 million, at-risk at .25. Bilingual weight for the first year costs \$11 million, and special ed funding at .95 the first year costs \$49 million." He confirmed that the total cost for the first year of his plan would be \$296 million.

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Senator Schodorf called for a vote on Senator Steineger's substitute motion to amend **SB 246**. The substitute motion failed.

Senator Schodorf noted that Senator Pine's motion remained on the floor.

Senator Allen commented, "I feel like I'm in a bit of a bind here. I think that this committee has not yet had a chance to discuss all of the alternatives that were offered up today. I realize I could make a substitute motion, but the problem is, to add in declining enrollment to this. I had hoped that, whatever came out, it at least included a declining enrollment provision, which does not have a fiscal note. However, I cannot support this plan. So, I would have to be in a position of offering a substitute motion and not supporting my own motion."

Senator Schodorf responded, "You are talking the declining enrollment piece? That's what I was going to suggest for us; to wait and see what the plan is—FTE or base per pupil—and then you could decide whether you wanted to make your motion about the declining enrollment people." She then asked Senator Pine to restate his motion. Senator Pine said, "I moved the plan that was originally presented with the addition back into it of the .5 vocational weighting."

Senator Apple offered a substitute motion to amend **SB 246** by including a provision for extreme declining enrollment, seconded by Senator Vratil. The substitute motion failed.

Senator Lee said, "I'm willing to vote in support to get this out of committee. I will not vote for this plan on the floor because of the increase in property taxes and the increase in the disparity. I don't see, frankly, one thing done in this committee at this point, so I'm willing to get this on out to let us work with it out there."

Senator Vratil offered a substitute motion to amend **SB 246** to distribute \$88.5 million, which amounts to \$200 per FTE student, eliminate the increase supplemental aid to \$6.0 million, increase, increase at-risk weighting from .10 to .15, increase bilingual weighting from .20 to .30, increase special education excess cost from 81.7 to 85 percent, increase supplemental general state aid in the LOB from 25% to 27%, and include vocational weighting at 50%, seconded by Senator Allen.

Senator Lee commented, "This is absolutely the opposite way that the Court has told us to do. I am very disappointed that in our discussions today we are not looking at the actual costs. We have had an actual cost document brought to us, and we are simply ignoring it because we, frankly, don't like what it showed. It clearly showed there's a difference. And, yes, the court case may have talked about disparity of funding. That can be a disparity in terms of not enough as opposed as too much difference. I strongly oppose this. Frankly, I believe it's doomed to fail. It certainly is the opposite way that we should be going, and I think it's not a compromise in the least. It is very bad public policy."

Senator Ostmeyer stated, "This would be the demise of small schools, I'm telling you. If we need more time to think about it, I'm willing to come here and work until midnight rather than to send something out. I'm willing to support a bill. I'm willing to go along with my colleague beside me and get this to the floor and work on it. But it's broken. If we put this out there, there will be a dog fight on the floor. We need to get the biggest share of the fight done in here, and then get in there and try to settle the financing, decide what we are going to do. But if we put this on here, people, the fight has just begun."

In response, Senator Schodorf said, "Senator Ostmeyer, I have a question for you. Small schools, large schools have not gotten an increase in funding since 2001, and everyone is hurting. Every single school district has had increases in insurance costs and tried to increase salaries. They couldn't increase very much. They had utility cost increases. I heard the numbers that small schools would receive. I just don't understand why this plan would be the demise when small districts are getting more money right now anyway per pupil. And I know that it's been hard, but it's been hard for everybody. So, I just don't understand what you're saying."

Senator Ostmeyer responded, "Go to page four and look at Grinnell. I took my calculator and divided it out. I added vocational education back in, which would be \$34,959. That's what we'd be getting if adopted

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Senator Vratil's. Am I right, John."

Senator Vratil responded, "I don't think you are right. I think your calculations are incorrect." Senator Ostmeyer requested, "Let's correct them now." Senator Vratil said, "I don't know that we have the ability to do that with the information that we have." As Senator Ostmeyer began a comparison of Grinnell with Shawnee Mission, Senator Vratil said, "I'm not willing to make my decision based on the comparison of two school districts out of 302 in the state. That's not a good way to make a decision."

Senator McGin commented, "I think there's been a lot discussed here in the last two and one-half hours. I think we should go to session, give people time to ponder and think about some things. I don't know if we can all get back here; 5:00 would probably work. I think we need to digest a whole lot of material we have before us before we throw something out of here in the next thirty seconds." Senator Schodorf added, "I want us to think about the direction we are going. I think that's a very good suggestion; stop, go to session, and come back."

The meeting was recessed at 2:30 p.m. until 5:00 p.m.

Evening Session

Senator Schodorf called the meeting to order at 5:10 p.m. and reminded the Committee that the following two motions were on the table with regard to **SB 246**: a substitute motion by Senator Vratil regarding his plan with FTE and a motion by Senator Pine to recommend the bill favorably with vocational weighting. She went on to say that she planned to open the discussion on **SB 244** and **SB 245** with the hope of moving them out of committee, and, time permitting, the Committee would return its attention to **SB 246**.

Senator Schodorf opened committee discussion on **SB 244**, which establishes The 2010 Commission. She noted that a technical amendment was needed on page 3, subsection (o).

Senator Steineger commented that most commissions simply meet for a while and issue a report, but nobody pays attention to the report. He noted that commissions cost a lot of money, and the proposed Commission would be just one more government bureaucracy. Senator Ostmeyer commented that he felt businessmen should be included in the membership of the Commission. Senator Schodorf responded, "I own a book store, and I also work for the school district. And I'm a professional woman and own a farm. I think I could understand." Senator Vratil pointed out, "The way the bill is written, there would be only four professional educators out of thirteen. So, there's not even close to a majority of educators on this. If you include the Commissioner of Education as a professional educator, that brings it up to five. That's still not even close to a majority. You've got the President, the Speaker, and the minority leaders in both houses who have appointments to make that are not designated. Surely, they will appoint people from their communities who are business people, some professional people. I have faith in those legislative leaders to appoint a good mix of people in the community. I don't think we want to try to designate. Let's trust our leadership." Senator Ostmeyer commented, "I agree with you that it's not that way, but it could end up that way. Could maybe one or two maybe be a business person?" Senator Lee commented, "It's obvious to me also that the minority leaders in the House and Senate may not believe that there should be a minority legislator member, and if they don't use their one open position for that, then there are no minority members."

Senator Allen brought the Committee's attention to testimony by Rocky Nichols, Disability Rights Center of Kansas, in which he suggested that the following language be adopted: "The Commission shall develop a new special education financing formula that is based on the needs of the student receiving special educational and related services, and auxiliary aids and services, to each child served under the provisions of the Individuals with Disabilities Education Act by January 1, 2007." She suggested that the Committee consider whether or not to adopt the language before taking action on the bill. Senator Vratil responded, "I don't favor adopting that language because it ties the hands of the Commission right out of the chute. It tells them that they will recommend a new special education distribution formula and basically tells them pretty much what that formula will be. I don't think that's appropriate to tie the hands of the Commission." Senator Allen commented, "I don't know if that is the language we want to adopt, but I think it's worth considering whether we might want to put some language in there about individuals with disabilities." Senator Vratil noted that

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he had no objection to saying that the Commission will consider a special education; however, he felt they would do that anyway. Senator Steinger asked, "What hands does this commission have to tie? They don't have the authority to levy taxes, and they can't make laws; they're not legislators. They're not judges. So, this really doesn't have a lot of authority. It's just going to issue a report." Senator Vratil said, "That statement would direct them to recommend a new school finance distribution for special education. They may want to do that, maybe they don't want to do that. They may look at all the facts and hear from people at public hearings and decide that the formula we've got right now is the best formula. Why should we direct them to recommend a new formula when they may not think that's the best public policy?" Senator Steinger reiterated, "This is going to be one more commission that has no authority. They're going to have some nice meetings, but at the end, anybody that wants to disregard it will just disregard it." Senator Apple commented, "I think it goes to the heart of the Supreme Court decision in not so much how much money do you have, but are you spending your money wisely, are you going to look ahead. I just think it's a matter of being responsible. I think they can provide us some good advice." Senator Pine agreed with Senator Apple stating, "I think, if we didn't do something like this, I don't think we would be properly responding to what the courts have asked us to do – to take the time to do a better job of making sure we understand exactly how the funds that we are spending are spent so we can make good decisions in years ahead. I, personally, see this as a one year deal until we have time to really study what's going on and be in a better position to make whatever changes may be necessary."

Senator Pine moved that **SB 244** be amended by adding a CPA to the list of members to be appointed by the group as a whole, seconded by Senator Ostmeyer. The motion failed.

Senator Teichman moved to recommend **SB 244** favorably for passage.

Theresa Kiernan, Office of the Revisor of Statutes, explained that technical amendments were needed for **SB 244**. On page 3, lines 38 and 40, "council" should be "commission." On page 3, line 41, "legislature" should be "legislative coordinating council."

Senator Teichman withdrew her motion.

Senator Teichman moved to technically amend **SB 244** as suggested, seconded by Senator Apple. The motion carried.

Senator Vratil called attention to the language beginning on line 9, page 2. He asked if a legislator who was member of the Commission would only receive expenses, mileage, and subsistence and not receive the daily legislative pay. Ms. Kiernan clarified that the bill provides that legislators would their daily legislative pay. With regard to lines 35 and 36, subsection (a) on page 2 concerning the monitoring of the quality performance accreditation (QPA) system, Senator Vratil asked if the provision intruded on the jurisdiction of the State Board of Education. Senator Schodorf noted that subsection (b), which concerns the evaluation of the school district and quality performance seemed to be the work of the Commission rather than monitoring QPA because monitoring is a Board of Education function. Senator Vratil said, "I guess my question is do you want to leave in this bill a direction to monitor the school accreditation system?" Senator Pine commented, "In my mind, if you're going to look and see what's working and what isn't working and compare that to what these districts are spending, you've got to look at the quality of the end product. I don't know if we have to have that in there in order to do that or not. But I would think that would have to part of their charge to look at." Senator Teichman noted that subsection (a) is redundant of what is said in (b).

Senator Teichman moved to remove subsection (a), seconded by Senator Pine.

Senator Vratil commented, "If you read it very carefully, you will see that there are two different things there. In (a), it says 'monitor the implementation and operation of the school district finance and quality performance act.' That's the school funding act. That's the precise name. If you look down in (b), it says 'evaluate the school district and quality performance act.' That's not the same thing as the one above. I don't know what it is, but it's not the same thing.

Senator Teichman withdrew her motion to remove subsection (a).

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Senator Schodorf asked Ms. Kiernan if “finance” should be inserted after “school district” in subsection (b). Ms. Kiernan explained that the language was put in to address the Court’s concern regarding continued, on-going monitoring.

Senator Lee commented, “I see (a) and (b) as doing different things: (a) talks about determining that the state’s public school system is maintained in a matter that promotes constant and improved levels of student achievement; (b) is talking about a fair and equitable relationship between the costs of the weighted components and assigned weightings. I don’t why you even have evaluation of the school district and quality performance act in (b). Why don’t you just have evaluate the funding and determine if there’s a fair and equitable relationship between the costs. I don’t understand why quality performance is in.” Senator Vratil responded, “Because that’s the name of the school finance act.”

Senator Allen moved to insert in subsection (b) “finance” after “district” and before “and” on line 39, page 2, seconded by Senator Vratil. The motion carried.

Senator Teichman moved to recommend **SB 244** favorably for passage as amended, seconded by Senator McGinn. The motion carried with Senators Steineger and Lee voting “No.”

Senator Schodorf opened committee discussion on **SB 245**, concerning audits by the Division of Legislative Post Audit.

In deference to time and the fact that the bill would be worked on the floor of the Senate, Senator Teichman moved to recommend **SB 245** favorably for passage, seconded by Senator Allen.

Senator Vratil commented, “It says on page 1, beginning on line 15, that the Department of Education shall verify on an on-going basis the costs incurred by school districts providing programs required by law. Is that something that the Department already does or is that new, and do we know what that’s going to cost?” Dale Dennis, Deputy Commissioner, State Board of Education, responded, “If you are going to verify costs of programs that are required by law, that’s quite a group. There would have to be an additional one or two people to just do that.” Barbara Hinton, Legislative Post Auditor, commented that she understood the section referred to funding to specific areas such as at-risk. In her opinion, “This was intended to say those kind of things, the Department would require that they be recorded, compiled, and operated out of one fund. And then, the Department, as their auditors are out looking at other funds anyway, they would just look at that specific fund as well. It may not have the right words in here, but that was my understanding of what this was trying to do, not what Dale was talking about.” Mr. Dennis responded, “If that’s the case, we wouldn’t need very much because voc. ed. is a separate fund, bilingual is a separate fund, and the number of people involved, they have to do that to get their weighting. So, if you are only referring to those things that you are weighting, the only thing you need to do probably would be to put at-risk in a special fund. Other than that, you’re pretty much there.”

Senator Vratil moved to amend **SB 245** on page 1, line 15 by inserting “with respect to the weighted funds” after “the costs incurred by school districts”, seconded by Senator Apple. The motion carried.

Ms. Hinton confirmed for Senator Lee that the Division would not be getting information from the Department of Education but rather would be going out on its own to gather information. Ms. Hinton said, “As I understand it, this envisions us going out with a team of auditors and looking at data and doing an analysis and looking at what they are doing.” Senator Lee asked Ms. Hinton how much work she anticipated would be created for school districts. Ms. Hinton answered, “It’s hard to say. In the past, when we’ve done audits of school districts, depending on the scope of the audit, a lot of times it might take a couple of hours several days in a row to talk different people. But, in general, a lot of what we are doing is looking at their data and going through files. It’s not like full time for weeks at a time.” Senator Lee commented, “If we don’t trust the State Department of Education, who doesn’t work for us, why is the court going to assume that somebody who works for us is going to be able to give us an independent view?” Senator Apple responded, “From what I’ve seen, I think their work is pretty unbiased. So, I would hope that it would be unbiased in this case also.”

With regard the fiscal note, Ms. Hinton reported, “Initially, it started out being fairly small; the work we would

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do would be more verification. As I talked with people and people started to talking more about this being more of a legislative educational oversight function, I talked with various members of leadership and said, if you really want this, you probably need two teams of auditors. If you have two teams of auditors, you need some support staff, and so I said it could be as many as nine people. It could probably be done with seven, but at a minimum, I think it would be five. The guidance I got was to go ahead and put it in as nine, and that would recognize two full audit teams. Obviously, it depends on what the Legislature wants. At the time, we hadn't seen anything on The 2010 Commission. So, it would depend on how you all view The 2010 Commission, their roll. Because there's actually a lot of the same language and the same concepts in both bills in terms of the evaluation oversight. If you view us as going out and doing audit work to provide to that Commission, then that might be one thing. If you view them as doing a lot more of just getting testimony and other reports, then there might be some of those areas you wouldn't necessarily need us to go look at. Again, it depends on how you envision it. Right now, the way I understood it, it was a fairly inclusive roll for us. It was a school audit function within Post Audit. There are four other groups, what I'll call legislative educational oversight groups, that I identified around the country in Arizona, Ohio, Kentucky, and Tennessee. Tennessee has six to seven people. The others have twelve to sixteen people. After hearing what legislators were talking about, I went through and picked the kinds of tasks within those agencies that I thought mirrored more or less the things I'd been hearing. They also get into things like educational performance, and I don't think you want us in there, and I don't particularly want to be in there either."

Ms. Hinton reported that the first year cost for nine people on an on-going basis would be approximately \$791,000, which includes \$50,000 a year for possible contracting for consultants with expertise that Post Audit does not have and about \$90,000 one-time expense for computers. After the first year, the cost would be \$791,000 plus salary increases. She noted that perhaps it could start smaller, and it might grow over time or not. Senator Vratil commented that a decision regarding the costs should be made before passing the bill out of committee, and, in addition, the extent of Legislative Post Audit's function should be defined.

Noting that more time was needed to consider questions raised by committee members and that the official fiscal note on **SB 245** was not yet available, Senator Schodorf adjourned the meeting at 6:15 p.m.

The next meeting is scheduled for February 21, 2005.

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