

MINUTES

2010 COMMISSION

November 9, 2009
Room 545-N—Statehouse

Members Present

Rochelle Chronister, Chairperson
Dr. Ray Daniels, Vice-chairperson
Representative Marti Crow
Dennis Jones
Carolyn Campbell
Emile McGill
Terry Canfield
Barb Hinton

Absent

Senator Jean Kurtis Schodorf
Representative Clay Aurand
Stephen Iliff

Staff Present

Sharon Wenger, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Kristen Kellems, Office of the Revisor of Statutes
Dale Dennis, Kansas Department of Education
Janet Henning, Committee Assistant

Others Present

Scott Frank, Legislative Post Audit
Tom Krebs, Kansas Association of School Boards
Dodie Wellshear, United School Administrators/Kansas
Mark Tallman, Kansas Association of School Boards
Mark Desetti, Kansas National Education Association
Mike Reecht, K12, Inc.
Martin Hawver, Hawver Publications

Jennifer Crow, Topeka USD 501
Terry Forsyth, Kansas National Education Association
Sue Storm, Kansas State Board of Education
Val DeFever, Schools for Quality Education
Doug Bowman, Coordinating Council on Early Childhood Development Services
Diane Gjerstad, Wichita Public Schools
Michelle Butler, Capitol Strategies
Bill Reardon, Kansas City Kansas Public Schools
Bill Brady, Schools for Fair Funding
Jennie Rose, Kansas Children's Service League
Wynne Begun, USD 229, Blue Valley
Tiffany Taylor, Kansas Families for Education

Morning Session

The meeting of the 2010 Commission was called to order at 9:00 a.m. by Chairperson Chronister.

Budget and Revenue Summary

Alan Conroy, Director, Kansas Legislative Research Department, spoke to Commission members and advised the Consensus Estimating Group had met to revise the revenue estimates for FY 2010 and to make its first SGF estimates for FY 2011. Mr. Conroy told Commission members that for FY 2010, the estimate was decreased by \$235.2 million, or 4.2 percent, below the previous estimate. The revised estimate of \$5.301 billion represents a 5.1 percent decrease below final FY 2009 receipts.

Mr. Conroy stated the initial estimate for FY 2011 is \$5.179 billion, which is \$122.2 million, or 2.3 percent, below the newly revised FY 2010 figure. The primary reason for the reduction of revenues is a net change in more than \$250.0 million for transfers out in compliance with statutory requirements. Excluding these transfers, FY 2011 receipts would have been increased 2.6 percent. Factors affecting tax receipts in addition to the state of the economy include several pieces of legislation enacted in 2005-2007 that are continuing to reduce the amount of severance, income, estate, corporation franchise, and motor carrier property tax receipts deposited in the SGF.

Commission members were told the current unemployment rate for Kansas is very disturbing and that it is at 6.9 percent. He advised the projected unemployment rate for Kansas in 2010 is expected to be 7 percent or higher.

Mr. Conroy advised that Kansas has always lagged behind the nation in coming out of a recession but a modest growth is anticipated by 2011 (Attachment 1).

A question and answer session followed the presentation.

Dale Dennis, Deputy Commissioner, Kansas State Department of Education, spoke to Commission members and advised that in Kansas, the unemployment rate is up and free lunches are up as much as 12-13 percent.

Mr. Dennis told Commission members there has been an increase in enrollment, as much as 3,300 students. He stated that in order to fund this, it is estimated that, utilizing the current base state aid per pupil (BSAPP) of \$4,218, general state aid will require an increase of approximately \$100 million for the 2009-10 school year (Attachments 2, 3, and 4).

A question and answer session followed the presentation.

Sharon Wenger, Principal Analyst, Kansas Legislative Research Department, spoke to Commission members of reorganization questions being discussed.

Special Education Catastrophic Aid Audit

Laurel Murdie, Principal Auditor, Legislative Division of Post Audit, spoke to Commission members, regarding the *School District Performance Audit Report - K-12 Education: Reviewing Issues Related to Catastrophic Funding for Special Education*.

Ms. Murdie told Commission members the audit was prepared as a result of their concern regarding the recent dramatic increase in special education catastrophic aid claims.

Ms. Murdie told Commission members one question that was asked was: "Why has the number of 'catastrophic' special education claims increased in recent years, and how many claims are likely over the next several years?"

The audit answer and key findings included:

- Claims submitted to cover the "catastrophic" costs for very expensive special education students - those students costing more than \$25,000 per year - jumped from 276 to 758 between 2008 and 2009, and catastrophic aid jumped from \$6 million to \$12 million.
- Historically, districts submitted claims only for their very expensive students who required full-time teachers or expensive contracted services. The big increase in 2009 occurred mostly because the Shawnee Mission school district decided to prorate costs for all its special education students, even its less expensive ones. In recent years, several other large districts also began prorating costs for their most expensive students.
- If the law does not change for 2009-10 and if all districts and cooperatives follow Shawnee Mission's practice of prorating costs and submitting all the claims they could, it was estimated claims would jump to 5,500 and aid to nearly \$48 million for 2009-10. This worst-case scenario represents a 625 percent increase over the claims filed in 2008-09.
- Proposed changes to the requirements for qualifying for catastrophic aid - including raising the threshold for qualifying, and requiring districts to deduct the state special education aid they already receive when calculating catastrophic costs, would reduce catastrophic aid claims significantly.

The audit recommended the Legislature set the \$25,000 threshold amount at whatever amount it deems appropriate (up; down; or the same), adjust it for inflation in the future, and require

districts and cooperatives to deduct the state special education aid they have already received for a student (transportation and teacher aid) when calculating costs for catastrophic aid. (On file - Legislative Division of Post Audit, October 2009)

A question and answer session followed the presentation.

Legislative Post Audit Updates

Scott Frank, Audit Manager, Legislative Division of Post Audit, spoke to Commission members of audits in progress and Legislative Post Audit Committee legislative initiatives.

Mr. Frank told Commission members of performance audits which are currently under way or approved. These include:

- K-12 Education: Efficiency Audits of the Select School Districts (2010 Commission);
 - Four schools have volunteered for such an audit to include Derby, Ellinwood, Renwick, and Winfield.
- K-12 Education: Reviewing the Potential for Cost Savings from Reorganization of Kansas School Districts (Legislative Post Audit Committee);
 - The Legislature is interested in looking at school boundaries to determine whether there are less costly ways to configure school districts in Kansas.
- K-12 Education: Reviewing Issues Related to the Cost of the Health Care Benefits Provided by School Districts (2010 Commission);
 - Because health insurance costs represent such a large and growing cost for school districts, members of the 2010 Commission are interested in finding out whether there are ways districts could better control these costs.
- K-12 Education: Reviewing School Districts' Use of Medicaid Reimbursements to Pay for Special Education Services (2010 Commission);
 - Members of the 2010 Commission are concerned about whether school districts are missing out on large amounts of Medicaid funding for special education services (Attachment 5).

A scope statement for *K-12 Education: Reviewing the Potential for Cost Savings for Reorganization of Kansas School Districts* was distributed to Commission members (Attachment 6).

Mr. Frank distributed a summary of education-related legislation that will be introduced by the Legislative Post Audit Committee for the 2010 Legislative Session. Issues included:

- The question of who will direct the work of the school audit team when/if the 2010 Commission expires December 31, 2010.

- Recommendations for legislative action made by the Committee during the last legislative session.
- An audit follow-up issue: Ensuring that the state does not pay out at-risk funds for students who are determined to be ineligible for free lunches (Attachment 7).

A question and answer session followed the presentation.

Discussion of Final Report

Martha Dorsey, Principal Analyst, Kansas Legislative Research Department, summarized topics discussed during the Commission's 2009 meetings (Attachment 8).

Ms. Dorsey gave explanations of the following handout material which was distributed to Commission members.

- *Funding Testimony from Kansas Association of School Boards* (Attachment 9);
- *2009 Annual Yearly Progress Information from Kansas State Department of Education* (Attachment 10); and
- *Selected Testimony from School District Superintendents* (Attachment 11).

Chairperson Chronister requested the Legislative Research Department comment on the report regarding several reductions from the State General Fund, including the Highway Fund, the "slider," and some of the items which come off the top before the revenue transfers.

Chairperson Chronister asked Commission members for their input for recommendations. She noted the catastrophic aid issue has already been discussed and a recommendation has been made which should be included in the final report.

Dennis Jones moved to recommend, as a part of the annual report to the Legislature, that public education funding in Kansas be done on a three-year basis so that school districts have the flexibility to plan for the future. The motion was seconded by Carolyn Campbell. The motion carried by a unanimous vote.

Chairperson Chronister told Commission members that one of the things the Commission would want to do is to acknowledge the fact that creation of the 2010 Commission was a partial result of the court case, in order that there would be some other independent body looking at school finance.

Chairperson Chronister moved to recommend to the Legislature that the education of our children is the most important function of state government, and included in that are the things that we know make a difference in all children achieving the best that they can educationally. Specifically, we would name early childhood spending, before and after school tutoring and mentoring, at-risk funding, staff development, and leadership academy development for, especially, principals. The motion was seconded by Representative Marti Crow. The motion carried on a unanimous vote.

Dennis Jones moved to remind the Legislature that even though programs come and go, it is the charge of the state government to prepare our children for the future. Representative Crow

requested the following be added to the motion: that we cannot sacrifice a generation of Kansas students because of the economy. Dr. Ray Daniels seconded the motion. The motion carried on a unanimous vote.

Chairperson Chronister referred Commission members to the testimony from the Kansas Association of School Boards (see Attachment 9) and the statement of "Kansas is not a 'high tax' state"

Representative Marti Crow moved to recommend to the Legislature that Kansas is a highly educated state and not a "high tax" state because from the beginning, Kansas has invested in public education. Dennis Jones requested the following be added to the motion: that it is time the legislature takes positive and proactive steps to ensure that the commitment to the education of our children in the State of Kansas is solid and consistent. Dr. Ray Daniels seconded the motion. The motion carried on a unanimous vote.

Dr. Ray Daniels moved to recommend to the Legislature that the Early Childhood and tiny-k programs be moved to the Kansas State Department of Education. The motion was seconded by Emile McGill. The motion carried on a unanimous vote.

Dr. Daniels moved to accept the minutes as approved. The motion was seconded by Dennis Jones. The motion carried.

Afternoon Session

Sharon Wenger, Principal Analyst, Kansas Legislative Research Department, distributed handout material to Commission members as previously requested by Chairperson Chronister.

Ms. Wenger gave an overview of the Estimated Effect of Tax Reductions and Increases Enacted since 1995 (Attachment 12).

Ms. Wenger also gave an overview of the Estimated Fiscal Notes for Selected Tax Cuts Enacted Since 2005 (Attachment 13).

Scott Frank, Audit Manager, Kansas Legislative Post Audit, gave an overview of the Scope Statement for Kansas Tax Revenues: Reviewing Tax Credits and Exemptions (Attachment 14).

Martha Dorsey, Principal Analyst, Kansas Legislative Research Department, reviewed the recommendations of the 2010 Commission made during the morning session of November 9, 2009 (Attachment 15).

Recommendation 1. The Legislature should refocus its revenue and funding priorities to make education Priority Number 1. Education is the single most important function provided by state government. The Commission has heard repeatedly that education spending has a direct and positive impact on student performance.

- The Commission also received information regarding the state's dire economic situation.

- However, we also know the Legislature has made tax policy decisions that have contributed to these dire circumstances. Tax cuts made by the Legislature from FY 2005 through FY 2010 have totaled \$180 million. By FY 2011, that total will rise to nearly \$209 million (See Attachment 1). In contrast to the philosophy that “low taxes contribute to economic growth and high taxes detract from it,” we believe instead the following:
 - Kansas is not a “high tax” state and the Kansas tax burden (taxes compared to personal income) has been stable for decades.
 - Tax policy alone does not drive prosperity. (Information from Kansas Association of School Boards)
 - Education attainment drives state income far more than tax burden. (Information from Kansas Association of School Boards)
 - Lower taxes will not help the economy in the long run if states cannot support strong education systems, and that takes a significant investment.

*Representative Marti Crow requested the wording be changed to “. . . . lower taxes will not help the economy in the long run if the state does not consistently support a strong public education system and that takes significant investment.”

- In summary, the Commission believes we cannot sacrifice a generation of Kansas students because the economy is weak. It is time for the Legislature to take steps to ensure that the revenue and funding policies of the Legislature allow every Kansas student to achieve his or her full potential.

*Chairperson Chronister requested the following be added: In good economic times, reductions in revenues have been made, but the Legislature must now, in difficult economic times, face the fact that they have to increase revenue.

The Commission agreed by consensus with this statement.

Dr. Ray Daniels moved to recommend the Legislature gets back to the state funding for Base State Aid Per Pupil (BSAPP) for 2009-10, which was \$4,493. The motion was seconded by Emile McGill. The motion carried on a unanimous vote.

Ms. Dorsey read **Recommendation 2:** In addition to the knowledge that education of our children is the most important function of state government, there are things we know make a difference that results in every child achieving the best they can, educationally.

- Early childhood education;
- Before and after school tutoring and support programs;
- At-risk funding and programs;
- Staff development; and
- Leadership academies.

Dr. Ray Daniels requested highly qualified teachers be added to this.

The Commission agreed by consensus to this statement.

Ms. Dorsey read **Recommendation 3**: The Legislature should continue the three-year funding cycle.

Chairperson Chronister moved to add a recommendation that the Legislature includes tax issue items which, for 2010, would have been \$180 million and for 2011, \$208 million. The payback from the Highway Fund is an additional \$30 million, for a total of approximately \$240 million. It was suggested to include those items specifically listed on Attachment 13, and also make reference to the tax credit audit that is taking place for which recommendations are anticipated for January 2010. A separate item – the property tax reduction which has taken place from 2005 to 2011 – is an additional \$123 million. It also should be pointed out that the 1 percent increase in the sales tax for the state would be \$351 million. The motion was seconded by Dr. Ray Daniels. The motion carried on a unanimous vote.

Chairperson Chronister advised that it should be understood that the 2010 Commission is not suggesting all of these items, but it is a list of possible potential that would be recommended.

Representative Marti Crow moved to recommend to the Legislature that the revenue be dedicated to school funding. The motion was seconded by Carolyn Campbell. The motion carried on a unanimous vote.

Recommendation 4: Catastrophic Aid recommendation.

Recommendation 5: The Legislature should shift the *tiny-k* and Early Head Start programs administration to the Kansas Department of Education.

Chairperson Chronister told Commission members the staff of Legislative Research will prepare the final report and it will be forwarded for approval via e-mail.

The meeting was adjourned at 1:50 p.m..

Prepared by Janet Henning
Edited by Martha Dorsey

Approved by Committee on:

December 17, 2009

(Date)