

Key Education Issues for the 2007 Legislative Session

Revised December 20, 2006

Includes legislative recommendations of the Kansas State Board of Education and major policy recommendations from the Legislative Educational Planning Committee (LEPC), the 2010 Committee and the Joint Committee on Pensions, Benefits and Investments. Provides KASB positions and key talking points.

Recommended School Leader Action:

- Make sure all members of your board and administration are aware of these issues.
- Raise these issues with your legislators in formal or informal meetings in preparation for the 2007 Session.

1. School Finance Issues:

(a) Funding for Three-Year Plan. When the 2006 Legislature passed SB 549, projections based on April 2006 revenue estimates showed a \$426 million deficit by Fiscal 2009. After higher actual revenues in 2006 and November revenue projections for 2007 and 2008, the Legislative Research Department now projects a positive ending balance of \$342.4 million in FY 2009 (includes the three year plan and significant out-year obligations for social services, KPERs, transportation bonds, etc.).

As a result, the school finance plan looks much more secure. But there are expected to be competing pressures to cut taxes and add funding for other parts of the budget, such as higher education, highways and social services.

LEPC recommends: an on-going effort by the Legislature to make three-year appropriations for state aid to allow school districts better long-term planning.

State Board recommends: the Legislature adopt a “rolling two-year plan” by approving school funding for the next two years, rather than just one year.

KASB Position: We oppose any reduction in the three-year plan, and advocate additional funding to support increasing student achievement.

- The Post Audit outcomes study showed a close correlation between funding and student achievement.
- SB 549 funding levels are below what Post Audit found necessary to meet performance outcomes.
- To meet outcomes, districts will have to increase the Local Option Budget and local property taxes.
- School districts would appreciate the ability to do longer-range planning, but future funding could not be guaranteed and could be less likely to reflect actual costs.

(b) All-Day Kindergarten. Expanding kindergarten to full-time has been a popular trend in many districts. A Kansas State Department of Education report showed that full-time programs improve student achievement. The 2010 Commission recommended “that all-day kindergarten expand to include all children eligible to attend.” However, state law continues to count full-time kindergarteners as half-time students for funding purposes.

KASB Position: We support full state funding for all-day kindergarten to improve school readiness and raise student achievement.

- Without state funding, districts must divert funds from other programs to pay for all-day Kindergarten.
- Using at-risk funding puts districts with fewer low-income students at a disadvantage, because they receive less funding from at-risk weighting.

(c) Pre-Kindergarten Early Childhood Education. A growing number of studies show the long-term social and educational benefits of quality preschool programs. The 2006 Legislature approved \$2 million to pilot high quality preschool programs in six communities, and has provided funding for “at-risk” four-year-olds in school district preschool programs to supplement Head Start programs.

KASB Position: We support expanded funding for pre-school programs to improve school readiness and raise student achievement.

- KASB has received a two-year grant to promote awareness of the benefits of pre-K programs among school board members, policy-makers and the public.
- Because school districts already provide services in every community and educate about 90 percent of Kansas students in grades K-12, they should be a key part of preschool programming.

(d) At-Risk Funding and Free Lunch Counts. Since 1992, the state has supported programs to help students academically at-risk, with funding based on the number of students who qualify for free lunch. Total funding has increased significantly, especially in response to the *Montoy* lawsuit. Last session, the Legislature added a “high density” weighting; and also created a new “non-proficient” weighting that expires after one year.

On November 13, the Legislative Post Audit Division released an audit on free lunch student counts and at-risk funding. Based on a survey of 500 students, it suggested approximately 17 percent of students deemed eligible for free lunch should not qualify because their household incomes are too high. (The report did not accuse school districts of inflating numbers and noted that LPA could track financial information that school districts cannot.) Reducing funding by 17 percent this year would have reduced state costs – and funding for at-risk programs – by \$18.8 million.

On December 8, LPA released a second audit which found almost all states use some measure of poverty to distribute at-risk funding, and most of those use either the free or free *and* reduced lunch count. Some also use other factors, such as the non-proficient weighting Kansas adopted last session.

2010 Commission, with input from the state At-Risk Council, recommends to: (1) continue to use free lunch for at-risk funding because it is still the best measure of need; (2) maintain total funding for at-risk programs; (3) adopt a “linear transition” for high density at-risk weighting so districts do not gain or lose significant amounts of money due to small changes in enrollment; and (4) review the issue to ensure that at-risk funding is provided to those for whom it was intended.

State Board recommends: the non-proficient weighting be extended for an additional year to allow a study of its effectiveness, and that a linear transition be adopted for high density at-risk weighting.

KASB Position: We support increasing at-risk funding; using both free lunch and other factors (such as the non-proficient weighting) to determine the allocation to districts; and adopting a linear transition for high density at-risk weighting.

- At-risk funding works. As at-risk funding has increased, student achievement has increased and the gap between all students and “at-risk” subgroups has narrowed.
- The free lunch count is not a perfect measure of need, but state tests show free and reduced lunch students score well below the state average, and the gap widens in the higher grades.
- Measures like non-proficient weighting help adjust for the limitations of using free lunch.

2. English Language Learners

School districts have faced a dramatic increase in the number of students who do not speak English. Districts are required to provide education to these students, and No Child Left Behind requires they be tested in English after one year. There is a significant “achievement gap” for these students.

2010 Commission recommends: (1) the Legislature write to the U.S. Department of Education requesting students be given more than one year before being assessed in English, (2) consideration be given to requiring an ELL endorsement for all new teachers, (3) the Legislature continue to review best practices for teaching ELL students, and (4) the bilingual weighting factor be changed from 0.395 FTE for contact hours to 0.2 for headcount.

LEPC recommends: creation of the English for Speakers of Other Languages Task Force to consider how preparing teachers to teach ELL students could be incorporated into the basic teacher education curriculum. The nine-member task force would exist for two years and report to the committee annually.

State Board recommends: a two-year pilot program for English immersion programs for ELL students.

KASB position: We support reform of NCLB testing requirements; funding for mandatory programs such as ELL based on actual costs; and incentive grant programs to develop and assess best practices. We oppose curriculum mandates.

3. Special Education Issues:

(a) Seclusion and Restraint Regulations. A coalition of disability rights organizations is supporting laws and/or regulations that would restrict school district use of seclusion rooms and restraint for special education students who are dangerous or disruptive. The State Board has set a public hearing on new seclusion and restraint regulations, opposed by KASB, at 1:30 p.m. on February 13, 2007. Depending on the outcomes of the hearing, statutory requirements could also be proposed.

KASB Position: We recognize special education students’ rights are protected under the Federal Individuals with Disabilities Education Act (IDEA), and oppose additional state mandates (except for gifted education) that would lead to increased legal challenges. We support guidelines that promote best practices.

(b) Autism Services. Advocates for autistic students are pushing for expanded services requirements that would significantly increase the cost of special education and other public services. This proposal could significantly increase special education costs.

LEPC recommends: creation of a commission or task force to review services for individuals with autism up to the age of adulthood to identify the most effective treatment methods and transition services.

KASB Position: We oppose additional state mandates (except for gifted education) that would lead to increased legal challenges and costs. We support guidelines that promote best practices.

(c) Federal Funding. Federal auditors have determined school districts have received more than \$14 million in excessive Medicaid reimbursement for medical services provided to special education students, and additional amounts are under investigation. Districts were following state guidelines and will not have to repay the money, but Kansas is expected have that amount deducted from future federal aid. Also, the federal government is considering efforts to tighten restrictions on Medicaid special education reimbursement. Under the school finance law, the state is to pay for 92 percent of special education “excess cost.” If Medicaid aid is reduced, state appropriations will have to be increased.

LEPC recommends: ongoing monitoring of Medicaid payments, including reports from the Health Policy Authority on its efforts to resolve disputes with the federal Medicaid agency.

KASB position: We support full funding of the excess cost formula for special education aid.

(d) Part C – Infants and Toddlers. Part C of the federal special education law concerns programs for special needs students two years and younger. This program is currently housed in the Kansas Department of Health and Environment. The Governor’s office is considering proposals to transfer this program to either the Department of Social and Rehabilitation Services or the Department of Education.

2010 Commission and State Board of Education recommend: transferring the program to the Department of Education if it is moved.

KASB position: We believe the State Board should have oversight of all public preschool programs, and would support the transfer.

- Moving the program to the Department Education would allow better coordination with other special education programs.
- Most of the funding for this program comes from the Department of Education.

4. Teacher/Administrator Recruitment, Retention and Licensure

Many districts report difficulty in finding fully licensed teachers and administrators for all positions. State law makes it illegal to pay any employee who does not have the appropriate license for their job. Department of Education staff reported to the State Board earlier this year that a number of districts appear to be employing persons who do not have a valid license, and are not seeking waivers or taking alternative steps.

No Child Left Behind also requires schools to employ “highly qualified teachers” in all core academic subjects. Although Kansas is in a better position than most states, it is not expected to be able to comply with this requirement; and schools with higher numbers of at-risk students tend to have fewer highly qualified teachers.

2010 Commission recommends: state funding for administrator “leadership academies” (\$500,000); expanding support for teacher mentoring programs (\$2 million) and increasing support for professional development aid (\$2.25 million).

State Board recommends: (1) requiring quarterly reports from superintendents to local school boards on the number of unlicensed employees, (2) increasing appropriations for teacher scholarship or loan forgiveness programs for shortages areas, and (3) repealing the KPERS surcharge for retired employees who return to work in hard-to-fill areas.

LEPC recommends: consolidating four existing teacher scholarship programs into a comprehensive program, as proposed by the Board of Regents.

KASB Position: We support alternative licensure options, which allow districts more flexibility in hiring employees, with accountability based on actual performance. We support full funding for the state professional development program. We oppose the KPERS surcharge on retired employees.

- Facing a growing shortage of licensed educators, school districts should be able to hire individuals who may not have met all requirements, but can demonstrate competence through performance.
- Researchers, such as Standard and Poors, have found the most successful districts tend to invest more in professional staff development.
- School districts should not be financially penalized for hiring employees who take advantage of early retirement incentives.

5. State and Local Tax Policy

The Special Committee on Assessment and Taxation has been reviewing past and potential changes in the Kansas tax system. Trends show the overall tax burden in Kansas has stayed constant for decades, but the sales, income and property tax base has been increasingly “eroded” by various exemptions. Reliance on property taxes, especially residential, has increased. The Special Committee on Assessment and Taxation noted concerns about trends in tax policy, but did not make any significant recommendations to the 2007 Legislature.

Although not studied by the committee, limited base budget increases for school districts have increased the reliance on the local option budget, which is mostly property tax. The “three-year plan” will further increase LOB’s and local property taxes.

KASB Position: We support a higher base to reduce reliance on the LOB; oppose changes that reduce state revenue; and oppose limits on state tax spending (such as TABOR) that limit education funding. Our 2007 School Finance Resolution calls for “a comprehensive evaluation of state and local tax policies to ensure the cost of funding education and other state responsibilities is appropriately balanced between all tax sources and responsive to economic changes.”

6. School/Student Performance Standards and Goals

The federal No Child Left Behind Act requires schools meet Adequate Yearly Progress targets that increase annually to 100 percent by 2014. The State Board has made those targets part of school accreditation. The Legislative Post Audit Division outcomes study estimated the cost of meeting those targets will increase 5 percent per year ABOVE the inflation rate. Most believe it will be unlikely for schools to reach 100 percent regardless of funding, and believe NCLB was designed to make public education appear to be “failing” to justify alternative educational options such as private school vouchers, charter schools and contracted services.

LEPC recommends: the State Board and any other public agency be prohibited from spending public money to adopt or enforce accreditation standards based on a requirement of student performance or proficiency. Such a change could put Kansas out of compliance with NCLB and threaten approximately \$250 million in federal education funding.

KASB Position: Accountability under NCLB and school accreditation should be based on improvement in student achievement over time, instead of equal performance on a single test at a single point in time. Our resolution on NCLB calls for changes in the focus of the act, and states that without changes, Kansas should consider alternative actions or withdrawal from NCLB after careful consideration of the consequences.

7. School Choice Issues:

(a) Charter Schools. The concept of charter schools is to allow innovative or non-traditional education programs with accountability based on results, but charter school laws vary considerably among states. In Kansas, charter schools must comply with all laws applying to traditional public schools and must be approved by a local school board as well as the State Board. Last year, the State Board voted 6-4 to seek legislation that would allow charter school petitioners to appeal to the State Board if turned down by a local board. The bill did not pass and two of the six State Board members are leaving in January.

Kansas has received a federal grant to promote the development of charter schools and the Kansas State Department of Education has significantly increased its support for the concept. As a result, local boards are expected to receive a number of new proposals this year.

KASB Position: We support voluntary local efforts to experiment with new educational models, but believe such choices should be made by local school boards under their constitutional authority to “maintain, develop and operate” public schools.

- The State Board should not override local decisions, but work in partnership with local school districts in developing programs to help all students.
- Research shows charter schools have no better student performance than traditional public schools, especially when comparing schools with similar student characteristics.

(b) Private School Vouchers. A small number of states have created programs to provide public funding for vouchers or scholarships to attend private schools. A recent trend is to create such programs limited to special education students. A presentation on that concept was made to the Special Committee on Children’s Initiatives in September. The Committee noted the presentations but did not recommend creating a voucher system in Kansas.

KASB Position: We oppose public funding for private schools because such schools are not required to accept all students or to comply with rules and regulations that apply to public schools.

- Public schools are already required by law to provide special education services to students attending private schools.
- Private schools have no better student performance than public schools when comparing schools with similar student characteristics.
- Because private schools can choose the students they want to serve, vouchers will create a two-tier system of education.

8. Kan-ed

The state created and funded a telecommunications network called Kan-ed for schools, higher education and libraries through the Kansas Universal Service Fund, a surcharge on telephone service. The Legislature voted recently to shift Kan-ed funding from KUSF to the state general fund. Last session, it created the Kan-ed Oversight Committee to study whether the original objectives and goals of Kan-ed have been accomplished; and to make recommendations for: 1) changes needed to make Kan-ed a more viable program; 2) consolidation of Kan-ed with other state networks; 3) funding of Kan-ed; and 4) possible addition of other entities to be served by Kan-ed.

KASB Position: We support increased use and availability of education technology and have supported Kan-ed from its creation.

9. KPERS Long-Term Funding and Alternative Retirement Plans

The Kansas Public Employees Retirement System is “actuarially under-funded” by over \$5 billion. The Legislature is gradually increasing the state’s contribution rate, including what it pays for school employees. Other steps included the 2006 bill requiring districts to contribute on behalf of employees who retired from another district. Higher KPERS contributions take revenues away from current education costs. The current low retirement age contributes to a growing shortage of teachers.

Joint Committee on Pensions, Benefits and Investments recommends: a new retirement plan for those employees hired after its effective date. It would increase the current retirement age to 65 after five years of service or 60 after 30 years and raise the employee contribution rate from 4 to 6 percent of salary. Over the long term, it is projected to reduce the cost to the state.

KASB Position: We believe KPERS payments for school employees should remain the state’s responsibility; and support efforts to reduce those costs while maintaining appropriate benefits. KPERS officials indicate the proposed new plan’s benefits are comparable to other public and private retirement plans.

10. School District Accounting and Budgets

In recent sessions, there has been considerable interest in changing the school district budget and accounting process. Bills have passed to overhaul the budget format, require the posting of “budgets at-a-glance” and “district profiles” and making much more comparative information available on the Internet. However, critics continue to focus on two issues. First, although school districts use uniform state budget documents and definitions for income and expenditures, they use different accounting systems. Second, they are not required to budget expenditures at the school building level. Several studies have indicated such changes would have considerable cost.

State Board recommends: requiring local boards of education to report expenditures by school building, including cost per pupil.

Legislative Post Audit Committee authorized: a study of centralized accounting and reporting systems in other states.

KASB Position: We support efforts to improve the clarity of the school budget process, but oppose changes that would create additional, unfunded costs to districts.

- No information on the cost of mandatory building-based reporting was presented to the State Board.

11. School Employee Payment Date

State law prohibits school districts from beginning payments to employees before September. Most school districts now start the school year in August, which can result in a long delay in payments for new employees.

KASB position: We will propose legislation to remove the prohibition on making payments before September.