



**Ernestine Krehbiel**

President & Editor

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(Includes additions and comments from President Krehbiel)

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## **2013 LEAGUE OF WOMEN VOTERS OF KANSAS E-REPORT #5**

February 8, 2013 – Paul Johnson

### **DEFINING AND FUNDING A ‘SUITABLE EDUCATION’**

#### **SCR 1608 – Constitutional amendment concerning school finance; suitable provision for finance definition to be determined by the legislature**

The constitutional battle is on to define ‘a suitable education’ and who is responsible for deciding adequate funding for such an education. The Kansas Senate Judiciary Committee held informational hearings to review the history of school finance and school litigation since 1966 when the Kansas Constitution was amended concerning the educational system. On Wednesday February 13 and Thursday February 14, the Senate Judiciary committee will hold hearings on **SCR 1608**. This comes at a time when the Governor has requested that the Kansas Supreme Court appoint a mediator to settle a district court decision that ordered the State to spend \$440 million more on public schools to meet existing statutory requirements. [Ernestine comments: Since when does the loser in a court case get to THEN ask for mediation?]

The 1966 Kansas constitutional amendments established the complete framework for governance and funding. Section 1 of Article 6 places responsibility for the educational interests of the state with the Legislature. Section 2 of Article 6 establishes the State Board of Education and its primary duty of general supervision of schools. The State Board has authority to regulate the schools and school districts of the State. Section 5 of Article 6 establishes local control of public schools in the locally elected boards of education although this section does reserve certain control to the Legislature. Section 6 of Article 6 requires the Legislature to provide sufficient funding for the public school system, whether by direct appropriation, by authorizing the levying of taxes at the local level or by some other funding mechanism.

There were legal challenges during the 1970’s and 1980’s over the implementation of these constitutional provisions. In 1992, the legislature enacted the School District Finance and Quality Performance Act in response to the court cases. This Act changed the funding of public schools from an over reliance on local property taxes to a blend of state taxes (sales & income) with lowered property taxes. The Kansas Supreme Court upheld the act against all of the constitutional challenges. The Court held that the quality performance accreditation standards enumerated in the Act provided a sufficient means of judging whether the education being provid-

ed was 'suitable'. The Court was not willing to substitute its judgment of what constituted 'suitable' for that of the Legislature and held that the Act did not violate Section 6.

Several amendments were made to the 1992 Act and a lawsuit was filed over these changes. The district court dismissed the case – *Montoy v. State* – but the Kansas Supreme Court ruled that sufficient factual allegations coupled with the changes in the school finance laws merited having the district court take this case to trial. This Montoy case went through many changes and lasted through 2006 with the Legislature adding \$466 million in additional funding. In 2008, the Legislature passed SB 531 increasing the Base Student Aid Per Pupil (BSAPP) from \$4,433 to the current statutory amount of \$4,492. Now in 2013, the BSAPP is \$3,883 and this is one basis for the new school finance lawsuit – *Gannon v. State* – before the Kansas Supreme Court. The District Court agreed there was no cost analysis justifying the State's decreases in education funding. The Court noted the reduction of income taxes in the 2012 legislative session.

This battle is just starting. The prayer or wish that this could be rushed through and placed on the April ballot is vanishing given that mid-February is the latest time such a ballot measure has to pass with 2/3's majorities in each chamber to make an April election. Another political angle is whether the Governor or the Legislature will use their political muscle to eliminate the State Board of Education so there is no doubt who defines and administers a 'suitable education'. I believe the Kansas electorate has voted down this constitutional elimination of the State Board of Education a few times. **Bottom line, the funding battle is going to come down to developing a new cost analysis for providing a 'suitable education' and who controls this analysis since the Kansas Supreme Court has left that to the Kansas Legislature.**

There have now been 163 Senate bills and 265 House bills introduced. The website is:

[http://www.kslegislature.org/li/b2013\\_14/measures/bills/](http://www.kslegislature.org/li/b2013_14/measures/bills/)

## OTHER EDUCATION ISSUES

**HB 2085** would dramatically limit bargaining, and prohibit exclusivity- in other words teachers would not be permitted to choose a bargaining agent such as NEA or AFT. Boards would be required to negotiate with anyone who wanted to be at the table, strip teachers of a voice in length and no. of teaching periods and in teacher evaluation procedures

Wording from the bill's Fiscal note: (No cost to state to deny.)

**HB 2085** amends professional employee negotiation procedures in current law as they relate to teachers and other certified personnel employed by school districts: 1) the bill amends the definition of terms and conditions of professional service. 2) The bill limits the terms and conditions of professional service that are negotiable **to exclude the length and number of teaching periods as well as the professional employee appraisal procedure.** 3) The bill would no longer mandate exclusive recognition of a single professional organization to negotiate on behalf of its members. 4) Finally, the bill provides that negotiated terms between a school board and a professional employees' organization would not impact an individual employee unless the employee is a member of the organization and does not exercise his or her rights under the bill to be excluded.

**SB 103** Change the definition of an at-risk pupil re: funding:

(c) "At-risk pupils" means pupils who are: (1) A pupil who is enrolled in any of the grades below grade four and who is eligible for free meals under the national school lunch act and who are is enrolled in a district which maintains an approved at-risk pupil assistance plan; or (2) a pupil who is enrolled in any of the grades four through 12 and who is on academic warning or does not meet the standard on the mathematics or reading state assessment during the preceding school year and who is enrolled in a district which maintains an approved proficiency assistance plan.

## **RURAL PHONE SERVICE AND DEREGULATION**

Kansas has two primary legacy telecommunication carriers in AT&T and CenturyLink along with 36 smaller, local carriers. AT&T has written legislation - HB 2201 – to decrease its payments into the Kansas Universal Service Fund (KUSF). KUSF was created by the Kansas Corporation Commission in March of 1997 to assure that quality services are made available to all Kansans at affordable rates. The current assessment rates on intrastate calls on landlines and wireless is 6.13%. This bill is on the fast track with the final hearing set for Monday February 11 before the Kansas House Utilities and Telecommunications committee (9am in Room 582-N) with plans to vote on the bill that day. David Springe from the Citizens' Utility Ratepayer Board offered this testimony:

'However, HB 2201 does much more than simply reform KUSF. HB 2201 will eliminate quality of service requirements; allow price discrimination based on geographic location, potentially reduce Lifeline availability and eliminate the price cap on lifeline services, and eliminate carrier of last resort obligations for electing carriers. Ultimately, the changes proposed in this bill will disproportionately impact the more rural areas of Kansas, result in less service, potentially higher rates, potentially less Lifeline services and fewer consumer protections... this bill gives electing carriers the ability to provide less service, lower quality service or service at higher rates in the more sparsely populated, less competitive areas of the state... This changes the core principle of Kansas policy (*K.S.A. 66-2001 <a> Ensure that every Kansan will have access to a first class telecommunications infrastructure that provides services at an affordable price*) CURB recommends the Committee not pass the non-KUSF reform portion of this bill, but rather have the telecommunication study committee (in this bill) examine these proposed changes to determine if they further Kansas policy goals and report back to the committee next year.'

## **KANSAS GOVERNMENTAL ETHICS COMMISSION**

**Both SB 65 and HB 2095** The Kansas Governmental Ethics Commission is charged with administering, interpreting, and enforcing the **Campaign Finance Act** and laws relating to conflicts of interest, financial disclosure and the regulation of lobbying. These laws establish the public's right to information about the financial affairs of Kansas' public officials, lobbyists, and candidates for state and local office. Each year, the Commission receives thousands of financial disclosure reports filed by candidates, political parties, party committees, public officials and lobbyists.

The Commission is funded 1/3<sup>rd</sup> by fees and 2/3<sup>rd</sup>'s by State General Funds. The Governor's FY 2014 and 2015 budget cuts the Commission's SGF budget by 10%. The FY 2013 budget of

\$696,827 falls to \$646,713 by 2015 and the employee count will drop from 9 to 8 with the lost position being an auditor. **The Commission will introduce a bill to raise filing fees on candidates and political action committees** but the Attorney General has cautioned that significant increases might threaten free speech rights. This bill will not replace the 10% cut but the **Commission's fee fund could be depleted by 2016 with no bill.**

The Commission has a 9 member governing board appointed by several public officials. The Governor has two appointees with one appointee being the chair. There cannot be more than 5 members from one political party. Today there are 5 Republicans, 3 Democrats and 1 Libertarian who the Governor reappointed to the chairmanship. SB 65 expands the membership from 9 to 11 and limits members to 2 terms that equals 4 years. One member has been on for 14 years and 5 of the current 9 members would be impacted by this term limit. HB 2095 also limits the terms to 2. Both SB 65 and HB 2095 have had hearings with many questions from committee members.

## LEGISLATIVE NOTES

The budget process continues on with deliberate speed. You can review the House and Senate Calendars today to see the specific budgets that will be heard and reviewed next week. I watched the Governmental Ethics Commission budget hearing last Tuesday and it was brought before the full Senate Ways & Means committee on Thursday. The Commission's budget was one of eight budgets heard on Tuesday so not much time for a meaningful discussion on future funding shortfalls. At some point, the budgetary process will have to be synchronized with available tax revenues.

The Governor's tax package is now sitting in the Senate Taxation committee and some leaders are saying it may take some time to find that right compromise. One Senator speculated that without the extra revenue from the Governor's package that the unprotected portion of the State budget (25% of the entire budget) would have to be slashed by 25% for senior meals, child care, local health departments, state water plan, immunizations, etc., etc. This would focus the debate on 'essential governmental services' and have local units of government debate the raising of property taxes.

The GOVERNOR'S TAX PLAN: The Governor's plan calls for keeping the 0.6 cent sales tax that is scheduled to go away this year. It eliminates the income [tax deductions](#) for mortgage interest and property tax payments. The idea is to fill the budget hole caused by the 2012 income tax reduction. The proposal is clearly in trouble in the House Taxation Committee where normal Brownback Republican allies have severely questioned it, calling it a tax increase in its early years that does not buy down [income taxes](#) for some time.

A Study from a year ago commissioned by the Kansas Economic Progress Council on the ramifications of lowering the state income reminds of the real impact of the governor's tax plan. [Bernie Koch](#), executive director of KEPC, and study author Dr. John Wong presented findings. The study finds that, **for every 1 job created, 1.63 are lost** the study finds that a lowering of the income tax would result in a loss of 1.63 jobs due to a reduction in overall state spending.

## IMMIGRATION

**SB 140** – Kobach's immigration bill to enforce federal laws in Kansas.

**SB 2192 Pushed by SOS Kobach — takes away in-state tuition for undocumented aliens** (about 600 students) Page 12 (d) *An alien who is not lawfully present in the United States is not a domiciliary resident of the state, and in no event shall such individual be entitled to pay resident fees upon enrollment at any state educational institution.*

**From KEPC: Immigration report says bills could cripple some businesses**

A report released Tuesday (2/5/13) by the University of Missouri-Kansas City's Center for Economic Information says radical anti-immigration policies could cripple major Kansas industries and harm communities. The study reports immigrants in Kansas are more likely to be in their prime working years, more likely to hold jobs, and pay higher per capita state and local taxes than native-born Kansans. The study concludes immigration directly accounts for seven to eight percent of the Kansas economy, and that every immigrant job creates an additional .828 jobs in Kansas. [The study is available online.](#)

Some bills of note:

**SB 149** — Drug Testing for those receiving public assistance.

**HB 2241** — delays and changes the Renewable Energy Standard in Kansas as does SB 82 that was heard before Senate Utilities last Tuesday. Amends the Kansas Renewable Standards Act of 2009 [that also permitted the building of the 895-watt coal-fired power plant in Holcomb-- which can't go forward without an environmental review.] **This bill changes renewable energy mandates from 15% required by 2016 and 20% by 2020 to 15% by 2018 and 20% by 2024.** [IMPACTS COMPANIES TRYING TO START WIND ENERGY COMPANIES IN KS]

**HB 2234** — Kansas Department of Transportation and Kansas Turnpike Authority merger

**HB 2227** — moves spring elections to the fall in odd years – still non-partisan

**HB 2226** — moves spring elections to the fall in even years – partisan elections

**HB 2162** — Allow county election officials to request a plain-language "explainer" for difficult-to-understand ballot measures.

**HB 2224, 2258 & 2225** amend or repeal the Kansas Restraint of Trade Act. SB 123 and 124 also amends or repeals this Act.

**Amendment-Happy Legislators -Changes to the Kansas Constitution proposed:**

- Economic Freedom Amendment proposed by Ks. Securities Commissioner Aaron Jack. He wants an amendment to **prevent nationalization of private businesses** by the federal government.
- Amendment (talked about above) to not allow the courts to be able to tell legislature what is **a "suitable education"** [Was hoped by sponsors to get it on ballot **THIS APRIL**]
- Amendment to abolish the merit selection system for judicial choices-the Judicial Selection Commission and have Ks. Governors pick judges with Senate approval [Do you think that's a rubber stamp?] Already passed the Senate. Needs 2/3 vote in House also and there may be a chance to not get that. **Would be on public ballot in AUGUST of 2014** [Election with low turn out]