**KASEA Legislative Update**

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The 2017 Legislature now has 100 days in its rearview mirror. Some progress was made in the past week with the House passing a school finance plan and the Senate passing their own school finance plan out of committee, making it ready for debate by the full chamber.

Once both chambers have passed school finance bills, those bills will likely go immediately to a conference committee of House K-12 Education Budget Committee and Senate Select Committee on Education Finance Committee members - three from each chamber, with two each representing the majority party and one each representing the minority party.

Following that, each chamber will still have to pass revenue and final budget bills before they can legally adjourn the session.

Once all of these bills are passed and sent to the governor, all eyes will be first on him to see if he signs the bills into law and, subsequently, on to the Supreme Court for a school finance review.

The school finance funding level falls short of what many believe the Court will find favorable, especially beyond the first year. Some believe the Court may find the year one funding amount to be “adequate enough,” but may require further work in subsequent years. All of that is guess work, at this time. With a June 30 deadline looming for school closure, what is most important is the Legislature do its best work and get something before the Court for review.

**School Finance**

The House on Thursday voted [84-39](http://www.kslegislature.org/li/b2017_18/measures/vote_view/je_20170525104614_528462/) to pass HB 2410, with only a few amendments on the floor. The House Rules Committee was very careful in its assessment of policy “germaneness,” holding that any amendment must interact with the underlying bill on two points of nexus - i.e., if it was a policy amendment, it must also be related to the financing of schools.

The Senate Select Committee on Education Finance amended SB 251, stripped out the former contents of HB 2186, and placed the contents of SB 251 into Substitute for HB 2186. It is scheduled for Senate debate on Tuesday, May 30.

Following is a comparison of the [HB 2410](http://www.kslegislature.org/li/b2017_18/measures/documents/supp_note_hb2410_02_0000.pdf) as it passed out of the House with the Senate’s bill, now Substitute for [HB 2186](http://www.kslegislature.org/li/b2017_18/measures/documents/supp_note_hb2186_03_0000.pdf), as it passed out of the Senate Select Committee on Education Finance.

**Base Aid Per Student**

House: $4,006 for School Year (SY) 17-18 and $4,128 for SY 18-19. Adjusted by the Consumer Price Index (CPI)-Midwest for SY 19-20 and each year thereafter.

Senate: $4,006 for SY 17-18 and $4,080 for SY 18-19

Beginning in SY 19-20, increases will be based on a three-year rolling average of the CPI. The BASE is estimated to be $4,141 in SY 19-20; $4,203 in SY 20-21; and $4,266 in SY 21-22.

**Base Calculation**

House: Based its calculation on former SDFQPA formula. It does require a “best practices in successful schools” study by the Legislative Post Audit in FY 2021 and in FY 2026 to examine potential approaches for “reasonably calculating” the BASE aid per pupil.

Senate: The BASE aid was calculated using four measures of student success in school districts: percentage of students at grade level on math and English assessments, the percentage of students who are college and career ready on math and English assessments, the average composite ACT score, and the four-year graduation rate. On or before July 1, 2020, the Legislature would be required to review the SY 19-20 base aid amount and evaluate if it is reasonably calculated. The evaluation would be based on a successful school model using certain indicators of successful school districts.

**Enrollment Count**

House: Enrollment for funding purposes would be the number of students enrolled on September 20 of the previous year. In cases of declining enrollment, the enrollment of the second preceding school year could be used. School receiving federal impact aid would be able to use the average of the three preceding school years.

Senate: Same as the House position.

**High/Low Enrollment Weighting**

House: Low enrollment weighting would be available to districts with fewer than 1,622 students. For these districts, the weighting would be calculated on a linear transition: 100 or fewer student would receive  a weighting of about 101.4% of enrollment; and that amount would transition to about 3.5% as enrollment approaches 1,622.

High enrollment weighting would be available to districts with greater than 1,622 student enrollment and would be weighted at about 3.5%.

Senate: Same as the House position, but also provides for a legislative review of enrollment weightings and alternate methodologies, such as a “sparsity” model, during the 2018 session.

**At-Risk Weighting**

House: At-risk weighting set at .484. Sets a minimum of 10% at-risk population for all districts, but sets that weighing at .456.

Senate: At-Risk weighting set at .456 for all districts. Includes 10% minimum, which was set as a compromise for districts with a lower free lunch count, which is the proxy used to determine at-risk funding, but have a higher population of at-risk students. (This impacts Blue Valley and DeSoto districts, as their free lunch counts, used as the at-risk proxy for funding, are significantly lower.)

The calculation for the High-Density At-Risk weighting remains unchanged; however, it could be applied at either the building or the district level. Under this change, districts that do not qualify for High-Density At-Risk, but have individual buildings that meet the criteria, would be eligible to receive funds.

KSDE will identify and approve evidence-based best practices for at-risk programs and instruction. Districts who choose not to spend At-Risk funds on such best practices must show improvement within three years (can be demonstrated in a number of ways). If these districts do not show improvement, they would not qualify to receive the weighting in the succeeding year.

**Bilingual Weighting**

House: The bilingual weighting would be *the greater of* the FTE enrollment based on contact hours multiplied by 0.361 or the number of students enrolled in bilingual programs multiplied by 0.185.

Senate: Same as the House.

**All-Day Kindergarten**

House: Funds all-day kindergarten (1.0 FTE, instead of previous 0.5 FTE). A floor amendment added that the enrollment for the first year of all-day kindergarten funding would based on the current year, then on previous year’s enrollment in subsequent years.

Senate: A committee amendment would allow students enrolled in kindergarten in a school district in the preceding year to be counted as 1.0 FTE, regardless of actual attendance during the preceding year.

**Cost of Living Weighting/ Local Excellence Budget**

House: A floor amendment removed the “Local Excellence Budget,” which would have allowed districts based on having fewer free lunch (at-risk) enrollment in a district. The lower the free lunch enrollment, the more LEB may be accessed up to the 5% cap. The floor amendment restored the Cost of Living weighting, which is capped at 5% and is based on residential property values in a district and funded fully by a local property tax, with no state equalization aid. The COLA was established to recognize employment wage cost differentials across the state.

Senate: Maintains the COLA, which is capped at 5% and is based on residential property values in a district. Six school districts currently utilize this local tax factor.

**Capital Outlay Levy**

House: Continues the Capital Outlay levy of 8 mills, but expands the allowable use of that fund to include utilities.

Senate: SB 251 would have raised the Capital Outlay cap to 10 mills, but a committee amendment lowered that to the current 8-mill cap. It does expand allowable expenditures to include utilities, property/casualty insurance, and costs associated with maintaining infrastructure and technology. Also, prohibits the abatement of this levy for local economic development projects.

**Early Childhood Education**

House: Expands funding by increasing state aid for four-year-old at-risk programs, $2 million each year beginning in SY 17-18.

Senate: Same as House position, in SY 17-18 through SY 21-22. The Senate places a sunset date on a number of funding provisions with the stated purpose of re-examining these provisions at a time certain, to ensure the funding is improving student outcomes.

**Local Option Budget**

House: A floor amendment returned the “local foundation budget” (LFB) back to the Local Option Budget (LOB). The bill allows an LOB of up to 33% *without an election*, which is still equalized at the 81.2 percentile and calculated on an artificial base of $4,490. Those districts already at 33% retain that authority. Assessed Valuation Per Pupil (AVPP) of the preceding year is used in SY 17-18 and in subsequent years, the AVPP of the three preceding years is used.

Senate: Allows LOB of up to 30% on board action. Board action and right of protest petition is required to increase up to 33%. Those districts already at 33% retain that authority.

**New School Facilities Weighting**

House: The new school facilities weighting of a school district would be determined by multiplying the number of students enrolled in a new school facility by 25.0 percent. A new school facility would be a school facility in its first two years of operation that was financed primarily with bonds approved at an election held on or before July 1, 2015.

Senate: Same as House position.

**Ancillary School Facilities Weighting**

House: Same as current law. Authorizes a local tax levy for costs associated with opening new school facilities. The levy is authorized for two years and can be extended up to six additional years at decreasing amounts.

Senate: Same as House position.

**Special Education Weighting**

House: Same as current law. Weighting is determined by dividing special education payments by the base aid per pupil. The funding level required by state law is 92% of excess costs, although actual funding falls well below that. (Currently closer to 81-82%)

Senate: Same as current law, *except* the recommended $12 million increase in special education funding would be distributed based on the FTE enrollment of each school district.

**Transportation Weighting**

House: Weighting is determined by a cost-density graph with changes to the mathematical calculation that was previously utilized, according to a Legislative Post Audit recommendation. Includes a five-year grandfather clause allowing districts to choose the larger of the current weighting, starting in SY 17-18, or the SY 16-17 weighting.

Senate: Same as the House position, *except* the grandfather clause is limited to two years.

**Career Technical Education (CTE) Weighting**

House: The weighting would be determined by multiplying the FTE enrollment in approved CTE programs by 50%. The weighting would end following SY 17-18 and KSDE would be required to study the actual costs of CTE programs and report those findings to the Legislature at the beginning of the 2018 legislative session.

Senate: Same as the House position, *except* the this weighting would sunset July 1, 2018.

**Capital Improvement State Aid** (Bond and Interest)

House: Continues current law, *except* that for all bond issuances approved at an election on or after July 1, 2017, any district with an enrollment of less than 260 students would not be eligible for Capital Improvement State Aid unless that district received approval from the State Board of Education prior to holding an election.

Senate: A committee amendment would exclude payments for any capital improvement project, or portion thereof, that proposes to construct, reconstruct, or remodel a facility that would be used primarily for extracurricular activities for any bond issuance approved at an election on or after July 1, 2017.

**Virtual Schools**

House: Continues to fund students under the age of 19 at $5,000 per student for full-time enrolment, $1,700 for each FTE student enrolled part-time. Students over the age of 19 would be paid at a rate of $709 per credit hour earned, not to exceed six credit hours by any one student in any one school year. Requires a Legislative Post Audit of virtual programs in other states.

Senate: Same as the House position.

**Professional Development/Teacher Mentoring**

House: Adds $1.7 million for professional development and $800,000 for the Mentor Teacher Program. It is estimated that the funding level in Mentor Teacher Program would cover all first-year teachers.

Senate: Same as the House position.

**Private School Tuition Tax Scholarship**

House: Students from the lowest 100 schools on student achievement may be considered for tax credit scholarship starting July 1, 2018. Students must be eligible for free lunch and at least 50% must be direct certified as receiving services from the Department of Children and Families. Private schools must be accredited by the State Board if they do not go through high school and private high schools must meet the same performance standards as determined by the State Board for public schools. An amendment to repeal this failed on the House floor.

Senate: The committee removed the performance standard requirements, but retained provisions that would require qualified schools to be accredited on or after July 1, 2020. Accreditation was expanded to include not only KSBE, but also any national or regional accrediting agency recognized by KSBE.

**ABA Therapy for Autism Mandate**

House: A House amendment removed the ABA (Applied Behavioral Analysis) therapy mandate.

Senate: Does not include the ABA Therapy mandate.

**School Funding Mechanism**

House: Includes the reauthorization of the statewide 20-mill levy for school funding, but contains no further funding mechanism. The first $20,000 of residential assessed valuation would continue to be exempt from this levy.

Senate: The 20-mill levy remains the same as current law, but prohibits the abatement of the 20-mills for local economic development projects. The committee removed provisions related to the utility surcharges on water, gas, and electric bills, which would have been dedicated to school funding.

**KPERS - Working After Retirement (WAR)**

Both chambers passed the conference committee report on House Substitute for [SB 21](http://www.kslegislature.org/li/b2017_18/measures/documents/supp_note_sb21_02_0000.pdf), KPERS working after retirement. The bill now goes to the Governor for his signature.

Effective January 1, 2018, there will be a single working after retirement rule that would apply to all licensed/non-licensed school personnel. Key provisions of the agreement include:

* There is no earnings limitation.
* For *covered positions*, employer would pay the statutory contribution rate on the first $25,000 in earnings in the calendar year and 30% thereafter.
* For *non-covered positions* (those working less than 630 hours in the calendar year), employers do not contribute to KPERS.
* Employees aged *62 and older* must wait 60 days before returning to work.
* Employees *retiring before 62* must wait 180 days before returning to work.
* Prearrangement are prohibited.

To read a detailed summary prepared by KPERS, click [here](https://www.dropbox.com/s/xg9f1g4qkmwac10/KPERS%20Working%20After%20Retirement%20Member%20Type%20Rubric%20-%20Based%20on%20Conference%20Committee%20Agreement%20-%20May%2016%2C%202017.pdf?dl=0).

**Comprehensive Tax Package**

The work of passing a comprehensive tax package that is able to fill the budget gap of about $500-540 million in the next fiscal year and pay for increases in school finance remains elusive.

The House Democrats have for several weeks been insisting on passing a school finance bill *before* voting on a tax package, as they feared a lower tax package might artificially limit the amount of funding available for school finance. That hurdle has now been cleared with the passage of HB 2410 on Thursday.

SB 30 is the vehicle bill being used to formulate a comprehensive revenue package. As various proposals come forward, that bill number will be continually used although the contents may change from vote to vote.

On Monday, the conference committee on SB 30 - comprised of the chair, vice-chair, and ranking Democrat on each of the House and Senate tax committees - agreed on a tax package that would have raised an estimated $591 million for fiscal year (FY) 2018 and $626.1 million for FY 2019. This bill would have rolled back most of the 2012 income tax changes, including LLCs, and reinstated a three-tier income tax structure.

Although this has been a rallying cry from moderate GOP members and Democrats since its passage in 2012, most Democrats did not vote for it and the more conservative GOP members did not either. It was defeated [53-68](http://www.kslegislature.org/li/b2017_18/measures/vote_view/je_20170522203139_682357/) in the House and sent back to the tax conference committee for more work.

It is unclear whether passage of the school finance bill in the House clears the way for another vote on a package very similar or identical to the last version of the conference committee report (CCR) on SB 30, but House leaders want to have it resolved as soon as possible next week.

**Next Week**

Legislators will break Friday through Monday, in recognition of the Memorial Day holiday, and return to work on Tuesday. Look for the Senate to run its school finance bill on Tuesday, followed by tax and budget bills as soon as they can. The House will likely take the first action on the tax package, followed by their budget bill.

Conference committee work on school finance and the chambers’ respective budgets will follow passage of bills.