

MINUTES
JOINT MEETING
OF THE
HOUSE AND SENATE INTERIM COMMITTEES ON EDUCATION

Tuesday, October 11, 2011
10:00 A.M.
Room 171, State Capitol
Little Rock, Arkansas

Representative Eddie Cheatham, the Chair of the House Interim Committee on Education, called the meeting to order at 10:00 a.m.

MEMBERS OF THE SENATE INTERIM COMMITTEE ON EDUCATION IN ATTENDANCE: Senator Jimmy Jeffress, Chair; Senator Mary Anne Salmon, Vice-Chair; Senator Kim Hendren; Senator Bruce Holland; Senator Gene Jeffress; and Senator Johnny Key.

MEMBERS OF THE HOUSE INTERIM COMMITTEE ON EDUCATION IN ATTENDANCE: Representative Eddie Cheatham, Chair; Representative Johnnie Roebuck, Vice-Chair; Representative Duncan Baird; Representative Toni Bradford; Representative Jerry Brown; Representative Les Carnine; Representative Ann Clemmer; Representative Robert Dale; Representative Jody Dickinson; Representative Debra Hobbs; Representative Karen Hopper; Representative James McClean; Representative Randy Stewart; Representative Tim Summers; and Representative Kathy Webb.

NON-VOTING MEMBERS OF THE HOUSE INTERIM COMMITTEE ON EDUCATION IN ATTENDANCE: Representative Gary Deffenbaugh; Representative Andrea Lea; Representative Homer Lenderman; Representative Kelley Linck; and Representative Garry Smith.

OTHER MEMBERS OF THE GENERAL ASSEMBLY IN ATTENDANCE: Senator Paul Bookout, President Pro Tempore, Arkansas Senate; Senator Jonathan Dismang; Senator Michael Lamoureux; Senator Randy Laverty; Senator William Sample; Senator David Wyatt; Representative Tommy Lee Baker; Representative Nate Bell; Representative David Branscum; Representative Kim Hammer; Representative James Ratliff; and Representative Tommy Thompson.

Without objection, the minutes of September 1, 2011 and September 6, 2011, were approved as written.

Update on the Litigation Concerning the Uniform Rate of Tax (URT), *McCleskey v. Kimbrell*

Mr. Scott Richardson, Senior Assistant Attorney General, Office of the Attorney General, was recognized. Mr. Richardson advised the Committees that on September 20, 2011, the Honorable Timothy D. Fox, Pulaski County Circuit Judge, issued a ruling in the *McCleskey vs. Kimbrell* case, which had to do with excess URT collections in a few school districts. He said that four districts, Eureka Springs, Fountain Lake, Armorel, and West Side, had received enough URT collections to put them above the foundation funding amount. Two of the districts, Armorel and West Side, were requested and agreed to pay the money back to the Arkansas Department of Education (ADE). Two districts, Eureka Springs and Fountain Lake, declined the repayment request and filed a lawsuit

challenging the ADE's position on the refunding of excess URT collections. The ADE's position was based on a long-standing Arkansas Supreme Court precedent that the state cannot pay state money to local school districts based simply on local property wealth. Judge Fox ruled that the URT was a state tax producing state revenue, but that the statutes didn't allow the ADE to recoup the money. Judge Fox suggested that legislative clarification might be warranted. Mr. Richardson stated that the Office of the Attorney General (OAG) has filed an appeal of Judge Fox's decision with the Arkansas Supreme Court. He said that from the perspective of the OAG, it's a fairly straightforward case. The URT is a state tax producing state revenue which Judge Fox agreed with, and on which the Arkansas Supreme Court has ruled before. Because of that, the state cannot allow extra money to flow to the districts simply based on their local property wealth. Mr. Richardson noted that that's what has happened here. These districts get excess URT, and therefore a higher per student funding amount, simply based on their high property values. The state has to do something about that to provide equitable opportunity for adequate education.

A discussion ensued following the update. Issues raised included:

- Penalizing counties for collecting the taxes that are owed according to law,
- The elements in foundation funding: URT revenue and general revenue,
- Precedent for the state's position to take action is set by the Supreme Court,
- The effect of collecting local property taxes on URT and other entities,
- Timeline for settlement of lawsuit,
- Clarification of Sections 22 and 24 in the *Findings of Fact*,
- Clarification of the meaning of Uniform Rate of Tax (URT),
- Correcting the inequity of excess collections,
- Assessment of Judge Fox's ruling,
- Impact of interpretation on the reasons for the lawsuit, and
- Need for legislative clarification of statutes.

Mr. Tony Wood, Deputy Commissioner, Arkansas Department of Education, was recognized, and participated in the discussion. Mr. Wood explained that notification has been made to school districts that have exceeded the amount of foundation aid per student, and that an amount of funding that they owe back to the state will be subject to the litigation being brought to closure. Mr. Wood agreed that legislative clarification may be required in order to solve this ongoing problem.

Representative Cheatham thanked Mr. Richardson for the update and Mr. Wood for his input.

Update on the Adequacy Study

Mr. Richard Wilson, Assistant Director, Research Services, Bureau of Legislative Research, was recognized. Mr. Wilson reported that the school district survey has been corrected and clarified, and letters are ready to go out to all 239 districts via the postal service. He said that an email with a .PDF attachment will go out on Monday, October 17th, to the districts. Districts can print out the attached survey and respond in that manner or click a link to a Web-based survey. The return date is October 31st. Mr. Wilson commented that all the data needed to complete the district survey can be found through the Arkansas Public School Computer Network (APSCN). Mr. Wilson advised the Committees that school site visits to a random sample of 74 schools will start on November 1st to collect school-level information. The sample pulled represents the population of the 1,100 schools in the state, both

geographically and demographically. Mr. Wilson added that in the coming weeks the Transportation model will also be updated with the latest data. He anticipated a preliminary presentation regarding the updated model to the Committees at their December meeting and a final discussion by the Committees at their January meeting. Mr. Wilson stated that the site visits should be finished in March or April, if not completed by the start of the Fiscal Session on February 13th. He noted that the final Adequacy Report is due on November 1, 2012.

Following the presentation, a discussion ensued on possibilities of merging the series of reports that school districts have to submit in October to the ADE.

Senator Jeffress commented that, in having the full Committees involved in moving forward with the Adequacy Study, the input of members is vital and it is imperative that members attend all meetings.

Preliminary Discussion of Interim Study Proposal 2011-186 by Senator Key, REQUESTING THAT THE INTERIM SENATE COMMITTEE ON EDUCATION AND THE INTERIM HOUSE COMMITTEE ON EDUCATION STUDY THE CURRENT STATUS OF MENTAL HEALTH SERVICES PROVIDED IN PUBLIC SCHOOLS AND THE NEED FOR ADDITIONAL PREVENTION AND INTERVENTION SERVICES

The Honorable Johnny Key, State Senator, District 1, was recognized. Senator Key discussed concerns that some of his constituents have had about school-based mental health issues and that they are seeking legislative attention to be paid to the issues. Senator Key stated that the Arkansas Mental Health in Education Association (ARMEA) was set up five or six years ago but has not gained a lot of traction with its efforts; however, it does have some level of a school-based mental health program in about thirty districts around the state. Senator Key said he is introducing this interim study so the Committees can take a look at funding and support issues.

Senator Key commented that he was made aware of an October, 2011, draft of a proposed rule from the Department of Human Services (DHS), Division of Behavioral Health (DBH) that will be impacting this subject. He said that he'd like for the Committees to take a look at this issue, hear some testimony from those in school districts who are working in the area, and review the proposed rule as part of the overall study, so Committees can know what the issues are and what may be done to address these problems.

Representative Cheatham related that he recently had an email from a woman who grew up in Crossett and who now works in a district close to Little Rock in the school-based mental health area. He thought that the Committees might be enlightened by hearing testimony from the woman and others.

Discussion of Motion to Refer Interim Study Proposal 2011-119 by Representative Stewart, TO REQUIRE FOREIGN LANGUAGE AS A REQUIREMENT FOR ELIGIBILITY FOR AN ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP, to the Higher Education Subcommittee of the House Interim Committee on Education

The Honorable Randy Stewart, State Representative, District 23, was recognized. Representative Stewart made a motion to refer Interim Study Proposal (ISP) 2011-119 to the Higher Education Subcommittee of the House Interim Committee on Education. Without objection, the motion to refer the ISP was carried.

Representative Cheatham reminded the Committees that there would be a joint meeting of the Senate Interim Committee on Children and Youth, the Senate Interim Committee on Education, the Children & Youth Subcommittee of the House Interim Committee on Aging, Children and Youth, Legislative & Military Affairs, and the House K-12, Vocational/Technical Institutions Subcommittee of the House Interim Committee on Education today at 1:00 p.m. in Room 171 of the State Capitol. He announced that the next joint meeting of the Senate Interim Committee on Education and the House Interim Committee on Education would be on October 24 and 25, 2011, at NorthWest Arkansas Community College in Bentonville, Arkansas.

There being no further business, the meeting adjourned at 10:45 a.m.