

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4614/2dn

PG:wlj:km

March 6, 2000

Representative Krug:

For the reasons I discussed with Helen Forster, this redraft leaves the uniformity provision stricken and eliminates the use of the term "formulas" from the new language. Briefly, here are the reasons:

1. According to *Kukor*, the uniformity provision merely requires that state funding be sufficient to ensure that all school districts are able to meet the minimum standards specified in s. 121.02, stats. The new language requires that state funds be distributed so as to ensure that educational opportunities in all school districts are as nearly equal as possible. I think that this language renders the uniformity provision surplusage. A court faced with the task of reconciling the uniformity provision with the new language, however, would not be able to draw that conclusion. It would have to assume that the provision still has meaning or the legislature would have deleted it. The court might be forced to conclude that its meaning had changed; otherwise, why would the legislature have retained it? Therefore, unless you are willing to allow the court to devise a new meaning for the uniformity provision, I recommend deleting it.

2. Instead of requiring that "all formulas under which state funds are allocated to school districts ... be designed to ensure" equal educational opportunities, this redraft requires that "all state funds distributed to school districts ... be distributed as to ensure" equal educational opportunities. Drafted this way, the court will not have an opportunity to determine which state funds are distributed via formula. All state funds, whether they are distributed as general equalization aid or as categorical aid, are included. If you want the amendment to apply only to the general equalization formula, let me know and I'll redraft.

Finally, you may wish to consider eliminating the first sentence of the new language, relating to "adequate funding." Given the "equal educational opportunity" requirement in the second sentence, I'm not sure whether the adequate funding requirement accomplishes anything. In other words, if the equal educational opportunity requirement means that the state must provide funds sufficient to ensure that students in the poorest school district have the same educational opportunities as students in the wealthiest school district, it seems unnecessary to add that funding be "adequate." Perhaps it would be better to combine the two ideas into one sentence, for example, "The legislature shall provide by law for funding school districts operating district schools sufficient to ensure that the educational opportunities in all school districts operating district schools are as nearly equal as possible"

If you have questions or need more information, please let me know.

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