

KSBA PRESENTATION

Is the Recallable Nickel in your Future or Should It Be?

Presenter:

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Ross, Sinclair & Associates



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"IT MAKES NO SENSE TO WORRY ABOUT THE FUTURE.
BY THE TIME YOU GET THERE, IT'S THE PAST!"



What is the "Recallable Nickel"?

It is an additional equivalent tax rate of five (\$.05) cents per one hundred dollars (\$100) of assessed value over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 that would be dedicated to major renovation of existing school facilities, new construction, and debt service.



What is the "Compensating Tax Rate"?

"Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. (KRS 132.010)

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What is an "Equivalent Nickel" Tax Rate?

The actual tax rate that districts levy to produce the 5-cent equivalent tax is usually greater than 5 cents because the calculation takes into consideration that the tax is only applied to real estate and personal property, not to motor vehicles, and also adjusts for the fact that districts will collect less than 100 percent of the tax.

Regardless of the amount collected from the tax, districts are required to transfer the exact amount produced by 5 cents per \$100 of assessed value of property and motor vehicles to the building fund.

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When would the "Nickel" be in the Board's Best Interests?



- ☐ District's Facilities Needs are Great
- ☐ Bonding Potential Is Low
- ☐ Other Sources of Revenue are Non-Existent

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Facilities Needs are Great



KBE APPROVAL DATE: JUNE 2013

Finding No. 1 approved 3/18/14 noted in hold type

SAMPLE INDEPENDENT SCHOOLS

CAPITAL CONSTRUCTION PRIORITIES

1b. New construction to replace inadequate spaces; expand existing or new buildings for educational purposes; consolidate schools; or replace deteriorated facilities.

Cost Est.

1. New Middle School (Grades 7-8)	(84,958 sf.)	
600 Student capacity on a new site to be determined		\$19,107,054
2. Technology Center	(24,000 sf.)	
Major Renovation & Site Development		\$3,826,075

Total \$22,933,129

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Bonding Potential is Low

SAMPLE SCHOOL DISTRICT Summary of Bonding Potential

◆ Local Bonding Potential	\$1,240,000
◆ SFDC Bonding Potential	\$0
◆ Total Bonding Potential	\$1,240,000

Potential Additional Bonding

Recallable Nickel (\$225,041 annually)	\$3,075,000
State FRPK Match of Recallable Nickel (\$139,838 annually)	\$2,700,000

Current Bonding Potential is Nearly Tapped Out

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Are There Other Sources of Revenue to be Utilized?

☐ Utility or Occupational Tax

☐ Dedicate 4% Annual Increase to
Facilities – No Equalization

☐ Recallable Nickel has good
chance of receiving “Retroactive
Equalization”

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"Opportunity texted me, tweeted me, linked to me, friended me, blogged me and spammed me. I was expecting it to knock!"

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What is "Equalization"?

Total State property assessment times (X) five cents per hundred dollars, divided (/) by State FTE x 150% = annual equalization threshold per student

minus (-)

The amount generated by the local District's property assessment times (X) five cents per hundred dollars divided (/) by the District's FTE =

State Equalization Amount per Student

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Qualifications For Retroactive Equalization - "Eligibility"

Any local district receiving or approved for equalization as a "Growth, Retroactive, Equalized Facilities, or **Category 5**" district on April 27, 2016 shall not be eligible to receive equalization for any additional equivalent rate levies made by it on or after April 27, 2016. [KRS 157.621 (4) (a)]

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Qualifications For Retroactive Equalization - "Term of Funding"

If Retroactive equalization is provided by the General Assembly, for levies imposed on or **after April 27, 2016**, which are subject to recall at the time of levy, it is the intent of the General Assembly that this funding shall **terminate upon the earlier of June 30, 2038**, or the date the bonds for the local school district supported by this equalization funding are retired. [KRS 157.621 (2) (b)]

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What One Must Consider if Nickel is in the District's Future

What will the Be the Strategy?

- ☐ Public Relations Campaign
- ☐ Quiet "Just Do It" Approach



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The Crucial Consideration for the Nickel Strategy



Timing! Timing! Timing!

- ☐ Never in August
- ☐ December is Good
- ☐ June is Good
- ☐ January to March Acceptable
- ☐ Relate to Specific Events in Your Community

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Disclaimer:
When using the
Information
in this
Presentation
Please work
with the
School
District's
Attorney for
Concurrence



Specific Legal Processes Must be Followed

The local newspaper's deadline for legal notices is the controlling factor in planning a schedule. You should decide on the Tax Hearing date and work your way backward to accommodate the newspaper's publishing schedule. All notices must be not less than twelve (12) column inches. (i.e. 3 col. X 4" = 12 column inches)



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Specific Legal Process Resolution Stating Intent

The Board of Education passes a resolution or board order indicating the intent of the Board to commit an additional equivalent tax rate of (\$0.05) cents per one hundred dollars (\$100) of assessed value over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 for the next school year that would be dedicated to major renovation of existing school facilities, new construction, and debt service.



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Specific Legal Process
Tax Rate Hearing



Tax Rate Hearing must be advertised at least twice for two (2) consecutive weeks, in the newspaper of the largest circulation in the county.

The advertisement must be a display type advertisement of not less than twelve (12) column inches in accordance with the specifications found in KRS 160.470 (7)(b).

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"There will be six designated yawning breaks during my presentation. Please pace your boredom accordingly."

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Specific Legal Process
Tax Rate Hearing Timing



Tax Rate Hearing must be held not less than 7 days or more than 10 days after the second notice is published.

Tax Rate Hearing must be held as advertised in accordance with KRS 160.470 (7) (d). Minutes may be kept.

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**Specific Legal Process
Tax Rate Motion**



Following the tax hearing, at a board meeting a board motion committing to an additional equivalent tax rate of five (\$.05) cents per hundred dollars of assessment for the next school year that would be dedicated to major renovation of existing school facilities, new construction, and debt service, should be passed.

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**Specific Legal Process
Follow Up to Levy Motion**



Within seven (7) days following adoption of the board order to levy the tax increase a notice must be published in the newspaper with the largest circulation in the county indicating that the levy is subject to recall. The advertisement must be a display type advertisement of not less than twelve (12) column inches in accordance with the specifications in KRS 160.470 (8) (b).

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**Specific Legal Process
45 Day Recall Clock
Begins**




In accordance with KRS 132.017 (2) (b), During the forty-five (45) days next following the passage of the ordinance, order, resolution, or motion, any five (5) qualified voters who reside in the area where the tax levy will be imposed may commence petition proceedings to protest the passage of the such by filing with the county clerk through a prescribed petition process.

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Specific Legal Process
45 Day Recall Clock
Ends




If no petition is filed with the County Clerk within forty-five (45) days following the passage of the board order to levy the tax increase, it becomes a permanent tax, eligible to be levied each year. KRS 132.017 (2) (a)

Must immediately begin to work with legislators to ensure the local "nickel" *if eligible* is equalized.

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Specific Legal Process
To Certify the Recall
Petition



In accordance with KRS 132.017 (2) (c), the petition shall be signed by a number of registered and qualified voters residing in the affected jurisdiction equal to at least ten percent (10%) of the total number of votes cast in the last preceding presidential election.

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**Specific Legal Process
Recall Petition is Filed**



If a petition for recall of the tax is filed within the forty-five (45) day period with the county clerk, the clerk must notify the presiding officer of the school board; and then, the clerk must either find the petition sufficient or reject the petition within thirty (30) days of receipt.

[KRS 132.017 (2) (f),(g)]

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**Petition is Sufficient
The Board's Choices**



If the county clerk certifies the petition as being sufficient, the board of education has fifteen (15) days following the date the clerk finds the petition sufficient in which it may:

- (1.) Decide to hold an election on the question. [KRS 132.017 (3), (a) (b)] (or)
- (2.) Recall the tax [KRS 132.017 (i)]

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**Specific Legal Process
Sufficiency of Petition**



The final review of the sufficiency of the petition shall be subject to the Circuit Court and shall be limited to the validity of the county clerk's determination.

Any petition challenging the clerk's decision shall be filed within ten (10) days of the issuance of the clerk's final determination. [KRS 132.017 (2), (h)]

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Strategy for Action on Recall Petition

- ☐ Consider level of community opposition
- ☐ Assess "stomach" for election of the Board and District Leaders
- ☐ Choose Special or General Election



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At this Point you Must Stay Positive!



"I'm ordering a transfusion. We'll replace your B-negative blood with B-positive and see if that improves your mood."

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If the Board Decides to Hold an Election – Option 1

It must submit the question to the voters of the district in a called common school election not less than thirty-five (35) days nor more than forty-five (45) days following validation by the county clerk [KRS 132.017 (3) (b)]



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It may choose to submit the question to the voters at the next regular election.

If this option is selected, the Board of Education must submit the question to the county clerk not later than the Second Tuesday of August preceding the regular election. [KRS 132.017 (3) (a)]





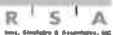
If the required election is in a short time after the Second Tuesday of August preceding the regular election, special scheduling conditions exist concerning "locked" ballot boxes and dates must be selected that could be further out than 45 days. [KRS 117.295 and 118.025]

[illegible]

Action on Recall Petition



- ☐ Bow out Gracefully - Fight another Day
- ☐ Hold an Election - providing an effort that would make *any political veteran proud*
- ☐ To Win Elections - Must GET YOUR VOTE TO THE POLLS



"We as board members are elected to study the resources and make the best decision for the school system. The voters don't represent everybody. What about the people between six and 18 years old, who speaks for them?"

-Henderson County Kentucky Board Member during 1966 debate on High School Consolidation



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*As a Public Servant You Should
Always Remember*

FOR EVERY COMPLEX PROBLEM
THERE IS AN ANSWER THAT IS
CLEAR, SIMPLE, AND WRONG.

-H. L. Mencken-